The INDEPENDENT REVIEW

A Journal of Political Economy

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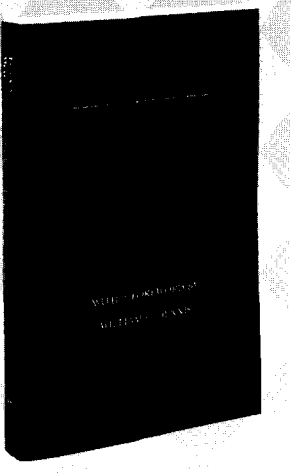

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Liberty, Dignity, and Responsibility

The Moral Triad of a Good Society

DANIEL B. KLEIN

In *The Constitution of Liberty,* Friedrich Hayek wrote, "the belief in individual responsibility...has always been strong when people firmly believed in individual freedom" (1960, 71; see also 1967, 232). He also observed that during his time the belief in individual responsibility "has markedly declined, together with the esteem for freedom." In surveying the twentieth century, noting the ascent of the philosophy of entitlement, the doctrines of command and control, and their institutional embodiments—the welfare state and the regulatory state—one can only respond, "indeed." Lately, perhaps, a reversal has begun.

We might advance the reversal if we better understood responsibility and its connection to liberty. We speak often of responsibility, but vaguely, even more so than when we talk of liberty. When Hayek refers to "the belief in individual responsibility," does he mean the striving by the individual to be admirably responsive in his behavior, to be reliable, dependable, or trustworthy? Or does he mean the belief that individuals ought to be held to

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account, to be answerable or liable for their actions? A drunken watchman can be held accountable for trouble that occurs during his shift; he is then both irresponsible and responsible. Indeed, the two kinds of responsibility tend to occur together, but they are conceptually distinct. As moral philosophers, we usually have the reliability notion in mind; as political philosophers, the accountability notion. To make the terminological distinction clear, I shall call the personal trait of being admirably responsive *personal responsibility,* and the social-relations trait of holding the individual to account *individual responsibility.*

Individual responsibility fosters personal responsibility. Policy affects morals. And personal responsibility enhances the appeal of individual responsibility and of liberty. Morals affect policy. Putting policy and morals together, we get feedback loops and multiplier effects.

I shall attempt to clarify the moral dimension of our statist ways. But moral philosophy here is handmaiden to political philosophy. I do not aim to persuade the individual to find or affirm certain moral outlooks or personal habits. I aim to persuade members of the polity to change government policy. One of the most important, if subterranean, arguments for changing government policy, however, is that doing so affects individuals' moral outlooks and personal habits, which in turn affects....

Clarifying Liberty and Individual Responsibility

My usage of *liberty* has a common recognition and acceptance. By liberty, I refer to private property rights, consent, and contract. By private property rights, consent, and contract, I mean what traditional common-law conventions have meant. Of course, there are gray areas here—what is the precise scope of private property rights? what of implicit terms in agreements?—and one must consider the senile, children, and other hard cases. But as a famous jurist once said, that there is a dusk does not mean there is no night and no day. Some things are gray, but most are either black or white. Despite its areas of ambiguity, the principle of liberty is cogent and well established. In the United States it is most consistently and most completely advocated by the libertarian movement. National and state policies that clearly encroach on the principle of liberty include drug prohibition, drug prescription requirements, drug approval requirements, restrictions on sexual services, licensing restrictions, wage and price controls, health and safety regulations of private-sector affairs, antitrust policies, import restrictions, laws against discrimination in private-sector affairs, and gun control. On the truly local level, such policies might be viewed as acceptable because we might grant town government the status of contract, as for a proprietary community.

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The point here is not that liberty is everywhere good and desirable, only that it is reasonably cogent.

Let us think of liberty as conceptually distinct from individual responsibility. Libertarians often speak in terms of the liberty dimension, disregarding the responsibility dimension. The point is familiar with respect to the welfare issue. The taxes, which libertarians deem an encroachment on liberty, are only part of the complaint. Suppose that instead of our current national and state welfare systems, we had the following: governments at the national and state levels continued to collect the same taxes but instead of providing welfare payments, they gathered all the tax dollars into a huge paper mountain, doused it with gasoline, and set it on fire. This hypothetical arrangement encroaches on liberty just as much as the existing system does. Libertarians may instinctually prefer the bonfire, but they cannot explain this preference with reference to the liberty dimension. The government distribution of welfare payments is itself objectionable, and for reasons aside from government ineptitude. The difference between the welfare system and the bonfire lies in the dimension of responsibility.

We can analyze government policy better by distinguishing liberty from individual responsibility. The dole is one thing: that the dole is financed by confiscatory taxation is another. Historically and practically, however, liberty and individual responsibility are intertwined. They are, especially, morally intertwined.

"Individual responsibility" means accountability; more specifically, it means *government-administered* systems of accountability for citizens. Both liberty and individual responsibility, then, pertain to the citizens' relationships with government. Hence, in my usage, one citizen's crime against another is not an encroachment on liberty, and the practices of a philanthropic organization, even if arbitrary, are not departures from individual responsibility. I shall sometimes abbreviate "individual responsibility" as just "responsibility."

Think of liberty and responsibility as one-dimensional continuous variables. For the sake of setting the benchmark, we can describe the absolute liberty and absolute responsibility that constitute the Libertarian Utopia. Absolute liberty would be the freedom of private property rights, consent, and contract among private parties. Government would maintain and enforce the legal order and not burden citizens with tax levies beyond those necessary to pay for these protective services. This arrangement is the classical Nightwatchman State, the utopia of Wilhelm von Humboldt, Frederic Bastiat, Herbert Spencer, William Graham Sumner, Albert Jay Nock, and other classical liberals. Here the government holds people accountable for their transgressions of private property rights, consent, and contract—punishing criminals, enforcing restitution where possible, and adjudicating a

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thick-skinned tort doctrine—but it provides no other benefits to citizens. (Again I hedge on the question of local government because local government services beyond the Nightwatchman functions may occupy a gray area between ordinary contract and state power.) In the Libertarian Utopia, summarized in the middle column of figure 1, the variables "liberty" and "individual responsibility" both have their extreme values.

	INDULGENCE Departures from Responsibility	**LIBERTARIAN UTOPIA** Nightwatchman State	**COERCION** Departures from Liberty
Govt. Practice in Govt.-Individual Interaction	welfare-state benefits; free govt. services	taxation to finance the nightwatchman state	confiscatory taxation; conscription
Govt. Practice toward Private Activity	inadequate punishment of consent violators	freedom for consensual and protection from nonconsensual activities	restrictions, regulations, or prohibitions on consensual activities
Govt. Practice in Civil Disputes	frivolous awards to plaintiffs; failure to make judgments against malfeasant defendants	thick-skinned tort doctrine	frivolous judgments; failure to make awards to aggrieved plaintiffs

Figure 1. Departures from Responsibility and from Liberty, in Relation to the Libertarian Utopia.

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Departure from responsibility—indulgence—takes various forms, as summarized in the first column of the figure. In interactions between citizens and government, government acts with indulgence when it gives benefits to citizens—welfare payments, medical care, housing, schooling, freeways, and so on. In its policing of interaction among private parties, government engages in indulgence in making inadequate punishment of criminals (meaning burglars, not pot dealers). In its adjudication of civil disputes, government engages in indulgence by failing to make tort judgments against truly malfeasant defendants or by making tort awards to frivolous plaintiffs, for example, in liability, discrimination, or sexual harassment suits beyond the bounds of a thick-skinned tort doctrine.

Encroachment of liberty—coercion—takes the forms of confiscatory taxation (in excess of funding the Nightwatchman), conscription, any kind of restriction on consensual private activity, excessive punishment of criminals or detainment of suspected criminals, making frivolous judgments against defendants in civil disputes, and failing to make tort awards to truly aggrieved plaintiffs in civil disputes. (Again, these delineations apply in the context of state and national government; at the level of truly local government, the contours of liberty and individual responsibility are much fuzzier.)

Having clarified the concepts of liberty and responsibility, let us now consider their interdependence.

Interaction between Liberty and Individual Responsibility

Government must be small and circumspect if society is to enjoy a high degree of liberty and a high degree of individual responsibility. To explain the magnitudes of these two variables in terms of the people's general attitude toward government—by whether or not they view it as wise and efficacious—we might say that liberty and responsibility vary together because they depend alike on the popular attitude toward government. Where people distrust government, they choose politically to have much liberty and much responsibility. A serious shortcoming of this approach, however, is that most people lack cogent views in political philosophy. Rather, their views on public issues are, if existent at all, superficial, inconsistent, piecemeal, and highly fickle.

Taking a more marginalist approach to the interaction of liberty and responsibility (economists might call it "comparative statics"), one asks: How do marginal encroachments on liberty affect responsibility? And how do departures from responsibility affect liberty? I shall briefly mention the more obvious connections only, then take up some subtler morals-based connections.

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Before proceeding, however, we should acknowledge another dynamic: diminutions of liberty today can lead to further diminutions of liberty tomorrow, and likewise for responsibility. Recognized aspects of this dynamic include the slippery slope, the force of precedent—"How come they have protection from discrimination and we don't? How come they get subsidies and we don't?"—lock-in and status-quo biases in government policy, the prehensile government agency, the ratchet effect, and the intervention dynamic (Mises 1978, 75ff). These factors help to explain how liberty and responsibility, each as a historical variable, undergo self-reinforcing changes—hence the famous saying of the Revolutionary Era about eternal vigilance being the price of liberty. A fuller treatment of how liberty and responsibility evolve through time would include discussion of these recursive processes. Here the focus is on how liberty and responsibility influence *one another* over time.

Much of the connection is direct and obvious. Welfare benefits and free government services, listed in the left column of figure 1, must be paid for by confiscatory taxation, listed in the right column. A similar direct symmetry appears in the bottom row, with regard to government practice in civil disputes: frivolous awards to plaintiffs imply frivolous judgments against defendants.

Other connections flow from the political economy of the matter. Commentators often point out the public-charge connection between diminished responsibility and diminished liberty. If taxpayers pay the doctor bills for repairing the motorcyclist's fractured skull, then there is a reason beyond paternalism for requiring him to wear a helmet. This argument arises often, in matters ranging from drug use to schooling. Hayek (1960, 286) not only acknowledged the point, he *employed* it in calling for a requirement that individuals purchase insurance for "old age, unemployment, sickness, etc." (though he opposed a unitary government institution). Thus, by accepting restricted individual responsibility as a premise, Hayek concluded by endorsing an encroachment on liberty.[1] The same dynamic appears in the argument that immigration must be curtailed because the newcomers expand the costs of welfare programs.

Other political-economy connections also exist. In *The Road to Serfdom* (1944) Hayek explains that government planning necessitates encroachments on liberty and departures from responsibility, as the planning promotes the breakdown of the rule of law and the expansion of arbitrary government. Thus, "the more the state 'plans,' the more difficult planning becomes for the individual" (76). Government's operation of the school

1. Note, however, that Hayek (1960) uses "liberty" a bit differently than I do here; see esp. pp. 20–21 and 142–44.

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system, for example, may well lead to restrictions on *private schooling,* in order to keep "the plan" viable. Government often favors its indulgence programs by hobbling the competition.[2] Thus, departures from responsibility lead to encroachments on liberty. Another connection ties the breakdown of the tort system to the rise of regulation (Wildavsky 1988, chaps. 4, 8) with a dynamic that results in an encroachment on liberty. In general, a breakdown of the rule of law leads to encroachments on liberty. Once individual responsibility loses force, liberty can turn into a riot of license. A stark example is the curfew imposed during actual urban riots. The influence runs in the opposite direction as well: restrictions on liberty cause poverty or the suppression of voluntary institutions, leading to government programs to supply what has been suppressed.

Clearly, liberty and responsibility exhibit acute fragilities, vulnerabilities, and instabilities. Yet none of the foregoing considerations takes into account the moral dimension, where we find an affinity between the morality of indulgence and the morality of coercion.

A Ship of Selves, but a Single Captain

Thomas Schelling (1984, chaps. 3, 4) has portrayed the individual as a bundle of multiple selves, often in conflict. Schelling describes how one self can foil another by acting strategically. The long-term self that wants to quit smoking might foil a short-term self by flushing the unsmoked cigarettes down the toilet. The long-term self that wants to keep his wife makes heartfelt promises to be more attentive. We all experience regrets and the tribulations of self-command. Is each of us merely a bundle of ephemeral impulses ever struggling among themselves for control without an inner judge? I think not.

For when we reflect on our behavior, we may find it coherent, even spiritually moving. Certain impulses receive inner support or admiration. Thus, it may be that when we are tranquil, our true self, an inward eye, tries to sort out who we are and who we ought to be.

If only it were so. For when we examine the inward eye—with an eye yet further inward?—we find that it also is multiple and constantly in self-conflict. Our most personal reflections, most searching judgments, most decided resolutions are—*yet more impulses!* Perhaps the impulse to smoke

2. A fine example comes from the making of Social Security in 1935. Sen. Bennett Clark proposed an amendment that would give companies and their employees the liberty to opt out of the public program by setting up a parallel private pension. But Sen. Robert LaFollette explained that such liberty would not be tolerated by the new indulgence scheme: "If we shall adopt this amendment, the government...would be inviting and encouraging competition with its own plan which ultimately would undermine and destroy it" (quoted in Weaver 1996, 47).

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belongs to a dual long-term self that wants to be the being that certain exciting achievements enable him to be, and those achievements can come only from the steady nerves that smoking a cigarette produces. Perhaps the impulse to neglect one's wife belongs to a dual long-term self that wants ample freedom to pursue dangerous adventures, to complicate and enrich life's loves. Even our thoughts are actions of a sort, carried out by impulses or selves. True, they are impulses operating at a deeper level, perhaps with a powerful influence over whole sets of shallower impulses, yet somewhat alien and suspect nonetheless. We cannot escape bitter struggle and sorrow even within the deepest level of consciousness.

Must we endure an amoral existence, the product of a mere struggle of opposing forces based on historical contingency, none worthier than the rest? No heroes to root for, no romances to experience, just hungers in conflict and transient gratifications?

Perhaps not. First of all, no one ever said transient. Some sentiments breathe and rejoice for a lifetime.

As for *worthiness,* even here we need not surrender. If consciousness, even in its farthest reaches, cannot reveal to us reliable indications of the worthy, let alone the worthiness algorithm itself, we still have the subconscious. After all, the conscious must emerge from somewhere. Even within economic philosophy, Michael Polanyi (1958) tells of tacit or inarticulate knowledge, which forms the roots of our ideas and the basis of our beliefs, and Israel Kirzner (1985, chap. 2) describes entrepreneurial discovery, a component of human action beyond mere choice-making.

But in the realm of tacit knowledge and the subconscious, do we again find multiplicity and conflict, a lack of unitary *essence* telling us what is worthy? Must we reach yet farther to satisfy our yearning for a sense of worthiness that guides our actions and gives meaning to our lives? How do we ever come to say that a story has a moral?

In the end we come to a fundamental question of existence, to which the answer must be action, not explanation. Time to act. If we must, let us believe in the soul. If the soul does not exist, let us invent it. A sense of worthiness is itself worthy. I simply affirm that I belong—my soul belongs—to the force for affirming the sense of worthiness and meaning. Happily, you belong to that force, too.

The ship of selves, then, is in the hands of a multitude of crew members, each trying to pull the ship's course this way or that—or neglecting it altogether—to satisfy its special limited desire. But the ship's course results not merely from this diffuse process of conflict and negotiation among crew members. There is a captain, too. Though he keeps to his cabin below deck, he works his influence on the crew members. Some he feeds; others he starves. Some he tutors into new becomings, refining them to specialized

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tasks for specialized moments. He cajoles and disciplines, hoping to get them to work together. He is constant. He wills but one thing. He has a destiny, ever distant, and he strives to manage the crew so as to follow the course that now seems to him best calculated to make his approach. He is neither Good nor Bad; he simply is. His being makes things good or bad. He judges worthiness and he gives meaning to the journey.

Some may rejoin, "What a plush tale you tell! And what makes it so? What evidence can you give? You offer us *mere* myth."

Myth indeed, but better a myth than a vacuum. For this myth is *worthy*. And I doubt that anyone will dispute its worthiness.

The plea is to try always to end on a note of hope of character integration. Figure 2 shows the spiral of disintegration and reintegration of character. On top are notions of the integrated self. The arrows on the right side bring the disintegrative challenges of multiplicity and inner conflict. The arrows on the left side affirm a deeper resolution, restoring integration. The spiral shows the soul as the limit, impossible to reach or reveal, and shows that being human has two sides: one to be accepted candidly for the reality it is, the other affirmed and made real by hope, struggle, and pain.[3]

I use the metaphor of the ship crew to represent self-multiplicity and conflict at one level, and that of the ship captain to embody the integrative force of a deeper, encompassing self. This crew-captain relationship is recursive; hence "the captain" is not the soul, but merely the hope of progression to character integration and, for the time being, resolution.

Self-Esteem, Self-Respect, and Dignity

The feeling of self-esteem is one of good cheer among the crew in action, of solidarity among themselves, of satisfaction and pride in the ship they serve. It often comes from outward recognition of achievements to their credit. Although self-esteem comes from positive reinforcement, the feeling is always somewhat illusory, for self-satisfaction naturally fuels self-striving. Self-esteem occurs at the shallow levels of the ship of self, and fluctuates with the ebb and flow of achievement and recognition. A compliment from an admired soul will send it soaring; a criticism or rejection will make it sink.

3. The two sides, left and right, of figure 2 coincide with the "two different sets of virtues" described by Adam Smith ([1790] 1976):

> The soft, the gentle, the amiable virtues, the virtues of candid condescension and indulgent humanity, are founded upon the one [namely, the set of virtues that pertains to the arrows on the right side of figure 2]: the great, the awful and respectable, the virtues of self-denial, of self-government, of that command of the passions which subjects all the movements of our nature to what our own dignity and honour, and the propriety of our own conduct require, take their origin from the other [namely, the set of virtues that pertains to the left side of figure 2]. (23)

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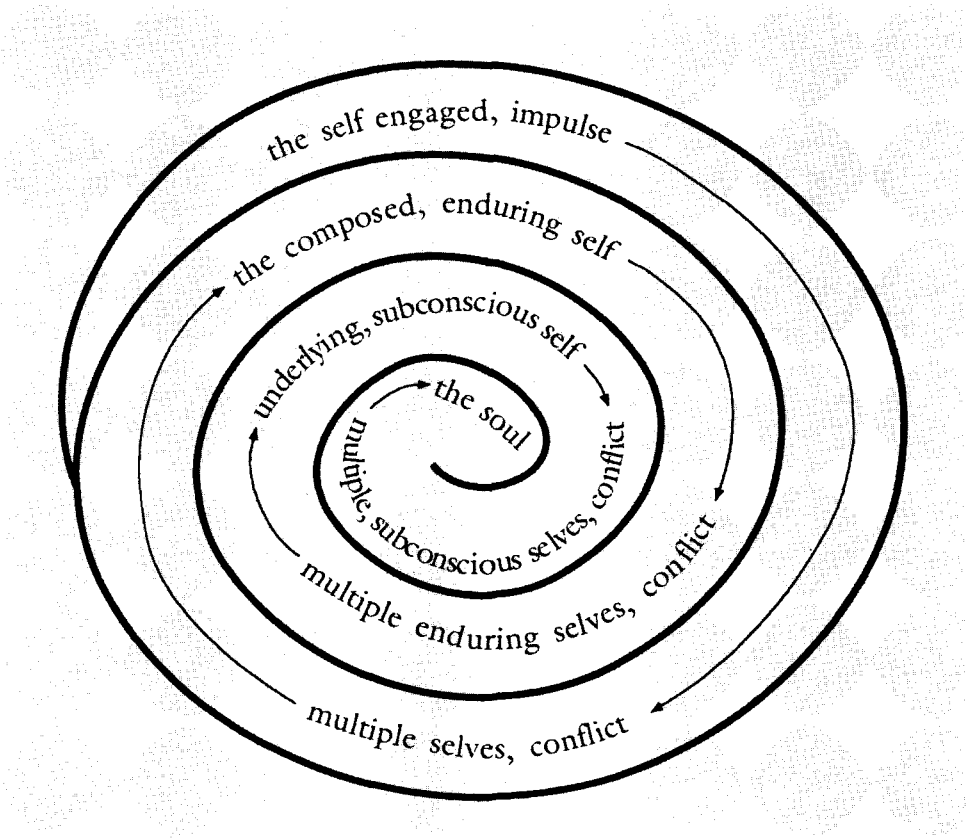

Figure 2. The Spiral of the Self: Disintegration and Reintegration of Character

Self-*respect* runs deeper. John Rawls (1971) speaks of two aspects of self-respect. "First of all,...it includes a person's sense of his own values, his secure conviction that his conception of the good, his plan of life, is worth carrying out. And second, self-respect implies a confidence in one's ability, so far as it is within one's power, to fulfill one's intentions" (440). We might interpret as follows: First, self-respect requires a feeling that one has a coherent moral force within oneself, that the judging faculty—the captain—exists. Second, self-respect requires hope among the crew that the captain can maintain his command and keep his mission alive. Together these two elements cause the crew to respect the captain. Out of respect, a crew member will sacrifice himself in response to the captain's will. Personal responsibility is a corollary of self-respect.[4]

4. The discussion here has been influenced by the chapter entitled "Dignity, Self-Esteem, and Self-Respect" in Murray (1988).

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But a respectful crew member does not always feel good cheer in his work. There can be respect without esteem. The crew member might question, negotiate, or even rebel. Inner conflict, turmoil, and inconsistency belong to a process of regeneration of the crew, a process of self-search and self-creation. "A foolish consistency is the hobgoblin of little minds" (Emerson 1951, 41). The captain's will to travel ever onward might mean that some crew members who have served their function must now be disposed of, and they, being habits of the mind and the heart, will resist. Inconsistency, disappointment, disillusionment, and pain accompany self-search, the process of reaching back to find a deeper understanding that will reconcile or resolve conflict. The search may yield the disappointing discovery of one's limitations—so some crew members in charge of hope must die—or the terrifying resolution that the hopes can live but only by the grueling sacrificial slayings of other parts that are old and dear. From the search for self-respect comes both gratification and despair.

A steady feeling of self-esteem, or satisfaction, is not possible for the normal aspiring person, so it is not any sort of ideal. Unflagging self-respect may be an ideal, but self-respect is an attitude about oneself projected inward, so it is not generally possible or even meaningful for an observer to gauge self-respect in others. Self-respect remains very personal and individual. Individuality makes like actions differ among individuals; in each case the action plays a unique role in a unique story. Self-respect is a question not only of our own voyages, but of our own destinations.

The observer cannot peer into the private ocean of another, but the observer can gauge the extent to which someone comports himself in relations with others so as to afford himself self-respect. In a word, we can form an idea of the extent to which the individual comports himself with *dignity*. Dignity is a social phenomenon. It is not about how one behaves in the exclusive company of oneself, but about one's outward behavior in relations with others.

We value dignity in our fellows because their example and standard aid us in behaving with dignity ourselves, which helps us to respect ourselves. By behaving with dignity, we take possession of ourselves, sort out our impulses, measure the worthiness of one impulse against another, clean ship if necessary, and on the whole give ourselves a more coherent and enduring sense of mission. The captain nourishes the crew members, but he is nourished in turn by them.

Let us place dignity then in the footlights along with liberty and responsibility. Dignity measures a certain quality in the behavior of the members of the society. That quality has two aspects: first, the extent to which they guard their own self-respect, or preserve their own dignity, in

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their social behavior; second, the extent to which they accommodate the self-respect of others, or preserve the dignity of others with whom they interact.

In preserving our own dignity, each of us says:

> My struggles are a necessary part of me, emerging from my personal drama. You may hear a crew member indicating a desire to be treated in a belittled fashion, but *now* I indicate that I will welcome no such treatment. I have validity and method in my being; don't tread on me. My drama is *mine.* I am its author and judge. I create its meaning. By showing self-possession, I show that I *possess* my story, and therefore you do not. It is my *property,* and you have no right to use it for your purposes except with my welcome and *consent,* in which case I make interaction with you part of my being.

In preserving our own dignity, we affirm the myth of the captain and his mission. We oppose those who would use our being without due regard for our own story, our own meaning. In preserving dignity, we oppose those who would demean us by denying, disdaining, or belittling the captain, the integrative moral force, of our being.

In acting so as to preserve the dignity of others, we presume that the individual is conducting his affairs as he sees fit, no matter how mad the method may seem. We respect his individuality. We do not dwell on, pity, or patronize someone's apparent weakness or disadvantage. We do not attempt to rescue when no rescue has been sought. We do not judge or even draw attention to, except insofar as doing so is a part of the relationship the other has willfully entered into. We honor an ethic of MYOB—Mind Your Own Business. We in no way question the captain's judgment or his command. Acting so as to preserve the dignity of others might also be called acting with common decency.

The relationship between the two aspects of societywide dignity—guarding one's own self-respect and accommodating the self-respect of others—will not be considered here, but it would seem that the two go hand in hand, based on a sense of universal human likeness, or brotherhood.

Although liberty and individual responsibility have been defined narrowly within relations involving government, the same political orientation does not hold for the definition of societal dignity. I am considering dignity as exhibited by individuals throughout society, in all sorts of social interaction.

Dignity is a worthy goal for a political or social movement, perhaps the worthiest. But my present goal is not to celebrate dignity or to recommend

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a plan for its achievement. Rather, I have introduced dignity to show the moral mechanism linking liberty and responsibility. If liberty and responsibility each have a reflexive relationship with dignity, then they have a reflexive relationship with each other.

The Interdependence of Dignity and Liberty

If the individual consists of multiple selves, the question arises: Should the government protect Dr. Jekyll from Mr. Hyde, just as it protects the innocent citizen from the criminal? If the individual is multiple, then in a way his actions are not so personal after all. One self imposes an externality on other selves, and externalities raise the issue of whether the government ought to intervene. Americans commonly make the assumption that intervention is called for with regard to opium use, gambling, Social Security, safety issues, suicide, and many other matters.

But the support for paternalism rests not only on the notion of the multiple self, but on the presumption that the conflict among the selves represents a sort of moral collapse. It is rather analogous to butting into a domestic dispute. A married couple needs to learn how to respect and tolerate one another, their dispute belonging to the drama of their marriage. In the case of the multiple self, the paternalist solution can make sense only once the hope for self-respect is lost. The paternalist presumes that the crew has taken over the ship, that all respect for the captain is lost and the crew no longer responsive to him. Dignity is gone. It is time, reasons the paternalist, to sacrifice liberty, too.

Thus, low societal dignity leads to coercion. The less the citizen preserves his own dignity, the less it makes sense to say that he acts in keeping with the captain's mission. Such doubt about individuals' mastery over their own behavior is manifest in the war on smoking waged by U.S. Commissioner of Food and Drugs David Kessler. He views the decision to smoke as resting in the hands of tobacco companies. Owing to their practices, he says, "Most smokers are in effect deprived of the choice to stop smoking." Part of the reason Kessler is prepared to doubt the dignity of the people is that, in fact, their dignity is not as high as it might be. For example, John Gravett (1993) wrote a magazine column titled "Life-Long Smokers Should Welcome Hillary's 'Nico-Tax.'" Gravett declares that the First Lady's tax hike of two dollars per pack "will surely bolster my resolve to quit." "I, like so many other life-long smokers, am only waiting for a good enough reason to quit once and for all" (54). Rather than searching as an adult to come to terms with his habit, Gravett glibly asks that he (and all other smokers) be treated as a helpless child. Citizens such as Gravett lend truth and legitimacy to Kessler's presumptions.

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Low societal dignity motivates Kessler's actions in another sense, too. Dignity has two sides. Kessler himself reflects low societal dignity in the sense that he is loath to preserve the dignity of others by accommodating the self-respect of smokers.

Kessler's attitude typifies what Thomas Szasz calls the therapeutic state (1963, 212–22; 1990, 253–61). Viewing personal behavior in terms of health and medical conditions, agents of the therapeutic state quickly attribute an individual's troublesome impulse to forces outside his moral being. Rather than seeing the impulse as a test of the captain's mastery over his crew, they see it as a sea monster that has attacked the ship and now must be cast off. Viewing the problem as caused by an alien force, they fancy themselves saviors stepping in to subdue the alien by restricting its powers. Rather than viewing the enjoyment of gambling, opium, or tobacco as growing out of and belonging to the being of the individual, they view it as an "addiction," an illness or disease that, like the mumps or smallpox, has descended on the individual and now warrants "treatment." Insofar as the prohibitionists regard the "illness" as a permanent constitutional condition, a "sick" part of the being, their coercive ways signal their disdain for the validity of the captain.

If eroded dignity promotes erosions of liberty, so too does eroded liberty promote erosions of dignity. Paternalist prohibitions and restrictions flatly tell the individual: "You are not competent to choose fully; we must circumscribe your choice." As Isaiah Berlin (1969b) puts it, "to manipulate men, to propel them toward goals which you—the social reformer—see, but they may not, is to deny their human essence, to treat them as objects without wills of their own, and therefore to degrade them" (149). Paternalism very plainly declares that the captain is invalid or incompetent.

Thus, the individual is invited to play the role of a child, unable to manage himself and unqualified to judge for himself. The individual must either accept the role set out for him or willfully resist the culture that presses him into that role. Such resistance can be psychologically arduous. In the culture of paternalism the childlike role creeps up on the citizenry, compromising their dignity. Individuals begin to surrender the romantic idea that the captain is the source and author of one's own meaning. Hence paternalist encroachments work to demean the individual's existence. This is the most tragic consequence of paternalism. Although the demeaning of individuals is a very important human consequence, rarely is it even noted in policy debates over drugs, Social Security, occupational licensing, and similar issues.

With the affront to dignity comes a loss of personal responsibility and self-possession. Berlin (1969a) explains:

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> For if I am not so recognized, then I may fail to recognize, I may doubt, my own claim to be a fully independent human being. For what I am is, in large part, determined by what I feel and think; and what I feel and think is determined by the feeling and thought prevailing in the society to which I belong. (157)

Psychological research supports Berlin's claim (Rosenthal and Jacobson 1968; Merton 1957, 430–36). Paternalism demeans its subjects and becomes a self-fulfilling prophecy.

Paternalism demeans people in other ways as well. It treads on individuality. The habit of gambling, drug use, or leaving seat belts unbuckled may not even be a personal problem, a point of inner conflict. Many people roll the dice, snort, or smoke in moderation; they have no misgivings whatever about their actions. Yet paternalism tells them that the activity is bad, and therefore demands that everyone fit a common mold. "But I am an individual; I have made myself unique," responds the miscreant. Again, resistance is psychologically arduous and, weary of resisting, the individual succumbs and dignity suffers.

Paternalism also damages dignity by the brutality of enforcement. Even those who successfully reject the morality and culture of paternalism may taste the bitterness of enforcement. Detainment, questioning, handcuffing, strip searching, and imprisonment are brutal, dehumanizing experiences and, whatever one's political views, bound to challenge one's belief in one's own mastery over existence.

As Lord Acton's maxim reminds us, power tends to corrupt. Paternalist encroachment damages dignity also by rehearsing the paternalist in denying dignity to others. Coercing people at one place now, the paternalist learns to treat them with small regard for their self-respect and so becomes more inclined to coerce them at another place later. Aside from the moral corruption of the public official, the corruption works on the public at large. Most of the popular support for paternalist coercions lies in the notion that *those other people* need to be protected from themselves. By supporting paternalist prohibitions, we develop a habit of demeaning our fellow citizens. Thus some might say that David Kessler and his supporters suffer from an addiction, that Kessler's moral corruption issues from his "coercion dependency."

Liberty and dignity complement one another. Their mutual dependence helps to explain why the price of liberty is vigilance. Encroach on liberty this morning and you cause an erosion of dignity this afternoon, which itself will generate a new encroachment on liberty tomorrow, and so on. If we neglect this multiplier effect, we are apt to underestimate the hazards of coercion.

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The Interdependence of Dignity and Individual Responsibility

During the Los Angeles riots, trucker Reginald Denny was dragged from the cab of his truck and beaten. As he lay prone on the street, Damien Williams bounded forward and hurled a rock at his head. The video tape showed that the large rock was thrown with such force that it bounced off Denny's skull. At Williams's trial, the jury acquitted him of attempted murder because "he was caught up in mob violence." Williams's stay in prison may last no longer than four years. Those convicted of murder nowadays stay in prison, on average, for five and a half years.

The jury might rationalize its decision: How can we punish Dr. Jekyll for the deeds of Mr. Hyde? We are loath to see the actions of a Damien Williams as part of an integrated moral force, to hold accountable all his impulses, including the Dr. Jekylls, for the action of a Mr. Hyde. Williams is like a child, and just as we don't accord full liberty to children, we don't put children in prison. After all, Los Angeles was suddenly transformed, the riot a whole new experience. How is one to know how to control himself in astoundingly new situations? Like a child gleefully dropping stones from a balcony, Williams was overcome by the thrill and the turmoil. Heavy punishment would be unfair.

The discounting of dignity now pervades the criminal justice system. Lawyers invoke all manner of syndromes, disorders, and mental illnesses to argue that the defendant is not fully human, that an alien force seized his person, making the human being a mere host. California has no Department of Punishment, but a Department of *Corrections*. The offender is not treated as an integrated moral force that has desecrated the civil order; he is an incompetent, defective, self-contradictory moral force that needs *correcting*. He is not fully human and therefore should not be held fully to account. Indeed, the less dignity the citizens actually have, the more plausible this view becomes.

We seem sometimes to deny all human conflict and instead pretend that a sustainable, happy, official cooperation exists. First we deny inner conflict, regarding troublesome impulses as the result of alien "illnesses" or external circumstances. Then we deny the conflict between the offender and society, abnegating punishment for "caring" and "correction." As Thomas Szasz (1990) says, "We appear unable or [un]willing to accept the reality of human conflict. It is never simply man who offends against his fellow man: someone or something—the Devil, mental illness—intervenes, to obscure, excuse, and explain away man's terrifying inhumanity to man" (239). Do we cast ourselves as "caring" and "correcting" in order to deny the conflict

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within our own breast? Does it testify to our humanity or our hypocrisy that punishment goes out of fashion?

The diminishment of societal dignity erodes individual responsibility and, in turn, the diminishment of responsibility further erodes dignity. The authorities tell the criminal: "We are not going to punish you. You are blameless for what happened. You did not have the power to prevent it. It happened *to* you. You are a victim of circumstances." The criminal is invited to play the role of a moral invalid.

Instead, to preserve the criminal's dignity, the authorities would say: "What you have done is intolerable to us. You must be punished. That's who we are, and that's who you are. You might change who you are, but that is your business." Then the criminal might come to terms and search his soul for penance.

Danish writer Henrik Stangerup tells a tale of a demeaned society in his novel *The Man Who Wanted to Be Guilty* (1982), set in a dystopian Therapeutic State where "it's always the circumstances that dictate our actions." People there have adequate comfort, ample leisure time, and "insurances from head to toe," but no individual responsibility. When trouble arises, citizens call the Helpers, who correct the situation, sometimes with red and green pills. The character Torben is bored and disgusted with life, especially with "the ease with which everybody surrendered to the system." He and his wife had always considered themselves underground dissidents, resisters who would rear their son to know a different ethic. But their spirits have been weakening, especially hers. One evening the crisis of identity erupts in a bitter dispute between them. He recognizes her resignation and foresees a future of meaningless tedium. He becomes drunk and abusive. She calls for the Helpers. He beats her to death.

The last stitch of self-respect Torben could possibly retain lay in being held guilty of his action. But the Helpers tell him that "punishment and guilt are not concepts we use any more." They will care for his future. In Torben's world, the absence of individual responsibility causes such extreme demeaning that the only way for the hero to proclaim his dignity is to fight for his own guilt and punishment. That is his last chance to affirm the myth of the captain. The novel is a study of affirming one's dignity even when it requires the complete sacrifice of happiness.

Refusing to punish demeans the innocent as well as the guilty. "Pardoning the bad is injuring the good," says Benjamin Franklin. The good stop feeling pride in their behavior when they see the bad indulged. "Maybe they're not bad after all. But then I am no longer good. So why am I bothering?" Indulgence of criminals sends a message of moral emptiness to one and all: "Be not ashamed or proud, for if the captain exists at all he is inane and absurd. Your moral precepts are *mere* myths."

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Indulgence carries the same message when it takes the form of welfare-state benefits. Government dispenses aid in an anonymous and arbitrary manner. The benefactors are taxpayers, *forced* to pay. Without voluntary contribution, there can be no gratitude; without gratitude, no generosity. No reciprocity comes about, just a doling out from above. This kind of relationship signifies moral emptiness: the faceless state provides for you regardless of your behavior; no one will ask whether you deserve your benefits. Thence arises the ethic of entitlement. With respect to education and many health benefits, government programs rest on the presumption that individuals or parents cannot care for their own needs or those of their families.

Before creation of the welfare state in America, when mutual aid was pervasive, one of the chief organs of the mutual-aid movement, *The Fraternal Monitor,* decried the rise of government welfare programs: "The problem of State pensions strikes at the root of national life and character. It destroys the thought of individual responsibility" (21 January 1908; cited in Beito 1990, 720). Welfare benefits place the recipient in the role of helpless supplicant, and the self-reliant person in the role of sucker. Again, pardoning the bad is injuring the good. In contrast, mutual aid rests on reciprocity and the refined use of superior local information. The member down on his luck receives assistance, knowing that it is temporary and given for specific reasons communally recognized as "hard luck." He is not demeaned. The institution would not render assistance to a member if he were "undeserving" (Beito 1990, 1993).

If welfare-state indulgence demeans recipients, it also springs from a collapse of dignity. As Berlin (1969a) observes, "specific forms of the deterministic hypothesis have played an arresting, if limited, role in altering our views of human responsibility" (73). "Structuralism" has always been a major theme of reformers, from Jacob Riis to the New Deal, the Great Society, and most recently Midnight Basketball (Murray 1984, 24–40). In his 1890 tract for housing reform, *How the Other Half Lives,* Riis described tenement buildings and neighborhoods as though the physical structures themselves made residents miserable. Calling for expanded welfare statism in his 1962 *The Other America,* Michael Harrington blamed poverty on "the system." Welfare statists attribute misfortune to "society," "capitalism," "the economy," "patriarchy," "greed," and so on but rarely to the individual experiencing it. Again, as in the case of David Kessler's attitudes toward smokers, the attribution has some truth and justification. As individuals surrender their dignity, they lose ground as authors of their own existence. How can one argue with individuals who say, "Please help me, my captain has fallen overboard and drowned"? Low societal dignity leads to increases in welfare-state indulgences. In a paper entitled, "Hazardous Welfare-State Dynamics" (1995) the Swedish economist Assar Lindbeck argues that the entitlement

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ethic expands the dole and the dole enhances the entitlement ethic. This thesis also conforms to the view of Gordon Tullock (1995) that the growth of government since the 1930s has been a phenomenon of "Bismarkism," or welfare-statism.

Interdependencies Illustrated

If, on the one hand, liberty and dignity are interdependent and, on the other hand, dignity and responsibility are interdependent, then liberty and responsibility are interdependent *by way of dignity.*

Across the top of figure 3 are the connections between Responsibility and Liberty that involve not morals but the dynamics of political economy discussed briefly at the beginning of this article. Below are the connections that involve moral dynamics, working through Dignity. Diminished Liberty causes diminished Dignity. Diminished Dignity points straight back to further diminished Liberty, and to diminished Responsibility. Diminished Responsibility works its effects in similar fashion.

If we were to posit a sudden exogenous shock to Responsibility, the result would be substantial first-round blows to Liberty and Dignity, and then secondary or multiplier effects bouncing through the system. We can illustrate the point with another figure.

Of the connections shown in figure 3, consider only those that point in a clockwise direction: Liberty is a function of Responsibility, which is a function of Dignity, which is a function of Liberty.

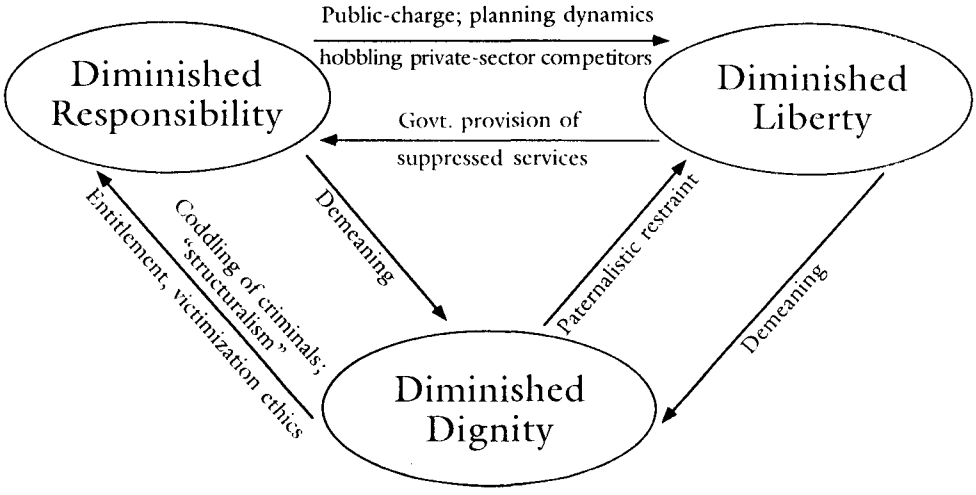

Figure 3. Interdependencies between Liberty, Dignity, and Responsibility

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Now consider the model shown in figure 4. On the morning of Day 1, Liberty checks the magnitude of Responsibility, and that evening adjusts itself to that magnitude according to the wiggly positively sloped line in the northeast quadrant of the figure. On the morning of Day 2, Dignity checks the magnitude of Liberty, and that evening adjusts itself to that magnitude according to the positively sloped line in the northwest quadrant. This adjusted level of Dignity is reflected from axis to axis in the southwest quadrant; that quadrant is merely a mirror. On the morning of Day 3, Responsibility checks the magnitude of Dignity, and that evening adjusts itself to that magnitude according to the positively sloped line in the southeast quadrant. Now we've gone full circle, and Liberty is ready again to adjust to Responsibility.

At point A the system is in stable equilibrium. If we pass through the system beginning from point R_A on the Responsibility axis, we keep coming back to point A. Now suppose that somehow an exogenous event causes Responsibility to drop from R_A to R_Y. Liberty and Dignity would drop as well, but as the system cycled, eventually it would return to point A. (The exogenous shock is assumed, implausibly, to last only one period.) It is possible that wounds will heal.

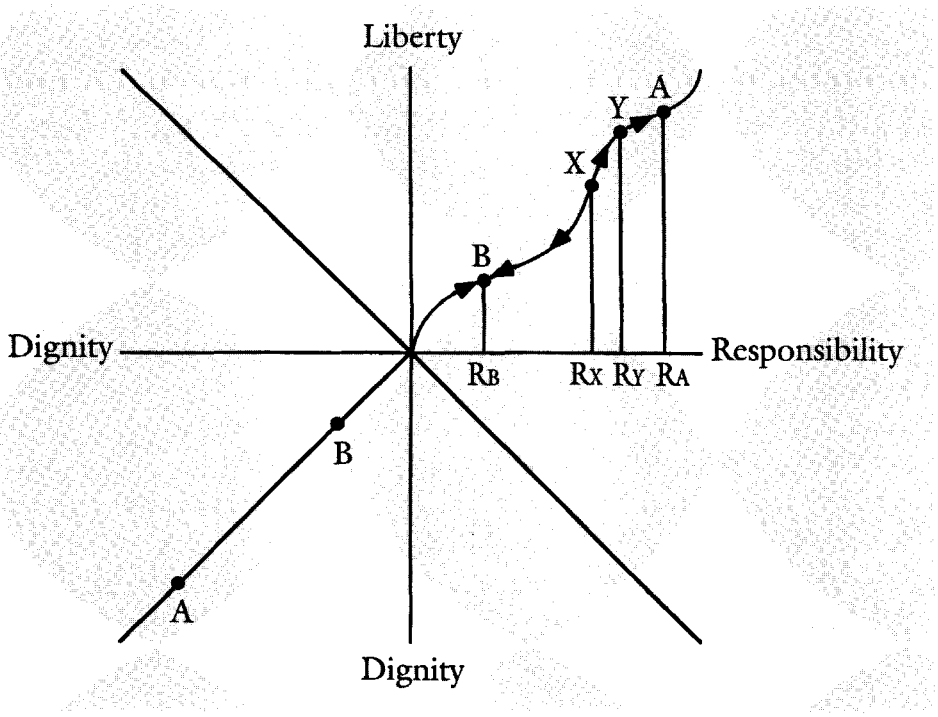

Figure 4. Dynamics of Liberty, Dignity, and Responsibility

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But wounds can also fester and become gangrenous. Suppose that an exogenous event, say the provision of universal governmental Social Security pensions, were to shift Responsibility from R_A to R_X. In this case, as we work through the system we do not move back to A but rather sink further and further until finally we settle at point B. The initial blow to Responsibility amounts to the distance between R_X and R_A, the secondary or multiplier effects to the distance between R_B and R_X. We have stumbled onto the slippery slope, and ultimately are stuck in a system with low Responsibility, low Liberty, and low Dignity.

What Has America Become?

Alexis de Tocqueville perceptively described the American character (outside the slave states) in the 1830s. His description probably continued to fit pretty well right up to the twentieth century. Much that he described Americans might well hope to shed: the naïveté, the insensibility to art and refinement, the repression of sensual and aesthetic delights, the fervent religiosity, the sanctimony, the bounderism, the oppressive conformism. But what of the goodwill, the hope, the self-reliance, the pride in oneself? Only by straining can we see in Americans today the following characteristics de Tocqueville ([1835/1840]1945) saw in the 1830s:

> [A]s soon as the young American approaches manhood, the ties of filial obedience are relaxed day by day; master of his thoughts, he is soon master of his conduct.... [T]he son looks forward to the exact period at which he will be his own master, and he enters upon his freedom without precipitation and without effort, as a possession which is his own and which no one seeks to wrest from him.... In America there is, strictly speaking, no adolescence: at the close of boyhood the man appears and begins to trace out his own path. (2:202–3)

> Long before an American girl arrives at the marriageable age, her emancipation from maternal control begins; she has scarcely ceased to be a child when she already thinks for herself, speaks with freedom, and acts on her own impulse.... [T]he vices and dangers of society are early revealed to her; as she sees them clearly, she views them without illusion and braves them without fear, for she is full of reliance on her own strength, and her confidence seems to be shared by all around her.... Instead, then, of inculcating mistrust of herself, they constantly seek to enhance her confidence in her own strength and character. (2:209–10)

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> In the United States, as soon as a man has acquired some education and pecuniary resources, either he endeavors to get rich by commerce or industry, or he buys land in the uncleared country and turns pioneer. All that he asks of the state is not to be disturbed in his toil and to be secure in his earnings. (2:263)
>
> When a private individual meditates an undertaking, however directly connected it may be with the welfare of society, he never thinks of soliciting the cooperation of the government; but he publishes his plan, offers to execute it, courts the assistance of other individuals, and struggles manfully against all obstacles. (1:98)
>
> When an American asks for the cooperation of his fellow citizens, it is seldom refused; and I have often seen it afforded spontaneously, and with great goodwill. (2:185)
>
> [I]n no country does crime more rarely elude punishment. The reason is that everyone conceives himself to be interested in furnishing evidence of the crime and in seizing the delinquent. (1:99)
>
> In the United States professions are more or less laborious, more or less profitable; but they are never either high or low: every honest calling is honorable. (2:162)
>
> In the United States hardly anybody talks of the beauty of virtue, but they maintain that virtue is useful and prove it every day. (2:129)

Tocqueville saw a people with self-reliance and self-respect. One of the significant themes of his work is that these traits flowed from the fact that American government at the time was small, decentralized, and permitted much freedom (see esp. vol. 1, chap. 5; vol. 2, book 2, chaps. 4–10).

Do Americans today retain these character traits? The Mexican American writer Richard Rodriguez (1994) remarks on the American spirit: "The notion of self-reliance. The notion of re-creation. More and more I'm sensing that that kind of optimism belongs now to immigrants in this country—certainly to the Mexicans that I meet—and less and less so to the native-born" (36).

All the talk about the breakdown of character in America indicates more than a passing media fad. The entitlement ethic, victimhood, privileges for

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minorities (who by one calculation constitute 374 percent of the population),[5] the assault on merit, the stigmatization of stigmatization, the proliferation of psychological "disorders," the medicalization of behavior (Szasz 1963; Peele 1989), the abandonment of guilt and punishment, the deterioration of personal responsibility—all seem to be real, and well along in their institutional entrenchment.

A study of the evolution of character in America would be an enormous, wide-ranging undertaking; the changes during just the last few generations have been stupendous. Nonetheless, sweeping aside so many stupendous things in order to air a hypothesis, I submit that the growth of government—a government that increasingly treats citizens as children—has played an important role, even a leading role, in the decline of character. Figure 5 shows federal government expenditures as a percentage of gross national product from 1850 to 1990 (with the war fiscal years 1918-19 and 1940–45 omitted). From the 5 percent range in 1930, it has climbed steadily (excluding the war years) to reach consistently more than 20 percent in recent years. Adding state and local government outlays would bring the total to about 35 percent. This trend mirrors a massive decline in individual responsibility. At the same time, the decline of liberty has been severe and extensive.

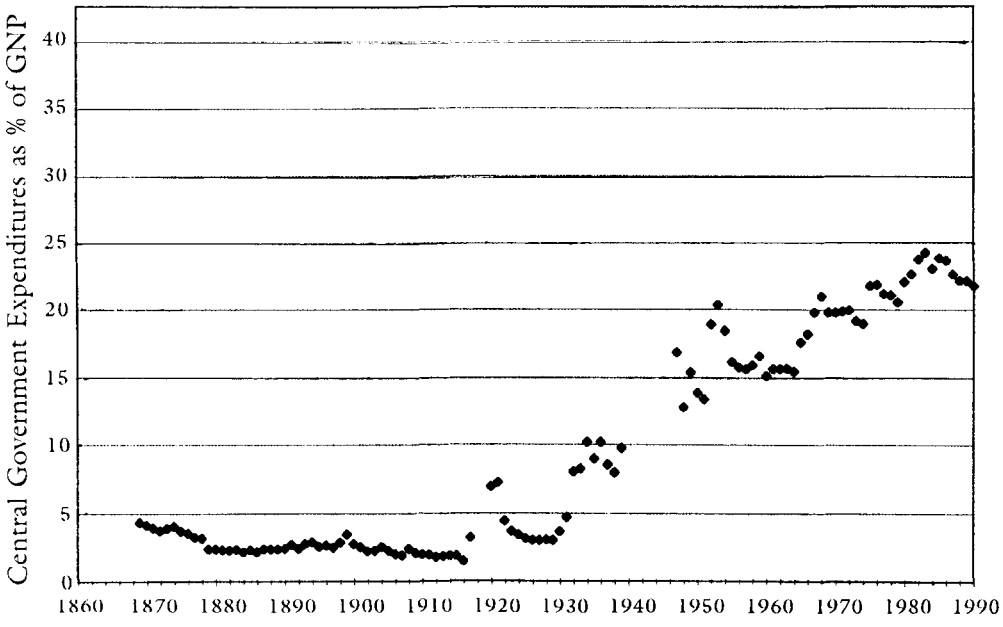

Figure 5. Government Burgeons Beginning in the 1930s

5. The calculation is by Aaron Wildavsky, cited in Sykes (1992, 13).

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If we are to tell stories that begin with important historical moments, looking to changes in government policy is more plausible than looking to spontaneous changes in moral character. A significant change in government policy might be devised hastily and driven through to political approval; Robert Higgs (1987) has described how this process often accompanies a national crisis. Moral character is obstinate and resilient, but make no mistake: Over time moral character will be altered.

American politics gradually embraced statism, most notably in the 1930s, and major moral decline occurred with a lag. William Julius Wilson (1987, 3) and other scholars have described how, through the 1950s, even in ghetto neighborhoods, common decency, personal responsibility, and public safety remained the norm. Only slowly did erosions of dignity take place, eventually feeding back into indulgence and coercion. Despite short-term fluctuations, it seems safe to say that liberty, dignity, and responsibility have been on a significant slide since the early 1930s and that the problem has become increasingly virulent since the 1960s.

Our problems of declining character have relatively little to do with sexual permissiveness, homosexuality, secularism, paganism, drug use, rock music, rap music, MTV, television violence, Howard Stern, or Hollywood. It is the demeaning of citizens, witnessed and experienced and perpetrated in actual human relations, and legitimized and even celebrated and glorified by officialdom, that really debases and destroys moral character, and that is what the government does on a vast scale with its programs of indulgence and coercion. Moral character is suffocated by the Nanny State, which tells us constantly not to believe in ourselves for we are, and will forever remain, children. Such a fate is exactly what Tocqueville's final chapters warn democratic societies against.

A Word to Fellow Travelers

Liberty and individual responsibility are made of the same moral cloth. Both preserve and affirm the dignity of the individual, the myth of self-determination and self-possession, of an integrative self. By corollary, a kinship links coercion, demeaning, and indulgence. The claim by Hayek that opened this essay—that responsibility and liberty go together historically—can be defended by appeal to the moral dimension of the people. If the argument has merit, it might give pause to those who tend to favor one but not the other. The social democrat should fear for personal freedom when supporting programs of indulgence, and the tory-conservative for responsibility when supporting programs of proscription.

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A Reasoned Vigilance for a Worthy Myth

In *The Devil's Dictionary,* Ambrose Bierce defined *liberty* as "one of Imagination's most precious possessions." Even when we try to make her tangible by dressing her with private property rights, consent, and contract, she remains elusive, ambiguous, half in the shadows. Responsibility is more ritual—"*mere* myth!"—and dignity most vaporous of all—"captain of one's soul? Ha-ha!"

The myth speaks for the complexities we cannot explain. The libertarian American founders, such as Thomas Paine and Thomas Jefferson, knew that this triad—liberty, dignity, and responsibility—deserved an eternal vigilance because they knew that each had virtues not easily reduced to cogent argument. When subtle secondary effects abound, effects we sense but do not comprehend in detail, we fail to render their import in words. We manage only judgment, declaration, and action. Sometimes the action is a declaration of our resolve, put in terms of morality, or myths.

The myth of responsibility, for example, holds that the wrongdoer could have refrained from the wrong and hence is "at fault," "to blame," or "guilty." That is the necessary myth that serves clumsily in place of the subtler reasoning that eludes us on the spot or fails to persuade the jury. A student of the deeper reasons for maintaining a system of individual responsibility, such as Hayek (1960), knows better: "We assign responsibility to a man, not in order to say that as he was he might have acted differently, but in order to make him different.... In this sense the assigning of responsibility does not involve the assertion of fact. It is rather of the nature of a convention intended to make people observe certain rules" (75).

Myths may help because individuals must be made "to submit to conventions...whose justification in the particular instance may not be recognizable" (Hayek 1948, 22). To sustain the convention, to prevent massive free riding by short-term, often compassionate impulses, it must be infused with moral import, mythologized as in: "Men are endowed by their Creator with certain unalienable Rights...among these are Life, Liberty, and the pursuit of Happiness." In this connection, Adam Smith ([1790] 1976) wrote:

> And thus religion, even in its rudest form, gave a sanction to the rules of morality, long before the age of artificial reasoning and philosophy. That the terrors of religion should thus enforce the natural sense of duty, was of too much importance to the happiness of mankind, for nature to leave it dependent upon the slowness and uncertainty of philosophical researches. (164)

He who scorns a myth merely because it is a myth misses the point, and betrays a poor understanding of his own moral being.

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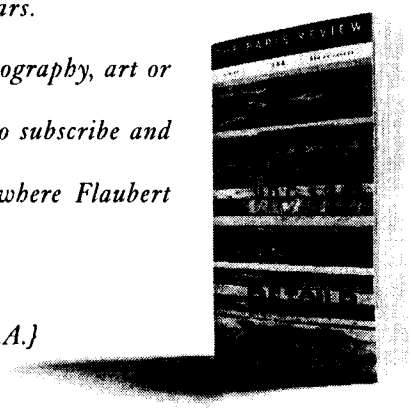

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The Tragedy of the Public Budgetary Commons

EARL R. BRUBAKER

Outlays of federal, state, and local governments have risen to approximately 34 percent of the gross domestic product (GDP) over the past several decades. Outlays of the federal government alone have recently amounted to more than 20 percent of the GDP. In the spirit of mainstream academic economics, it would be unremarkable to inquire into how these percentages compare with the optimum. Defining the optimum, however, would be a daunting task, even in principle. Presumably, it would have to reflect many time-and-place-specific variables and to account for a large number of divergent individual preferences regarding tradeoffs in production and consumption, not to speak of people's desires with respect to fairness and individual freedom. The investigator would have to account for divergent judgments about such complex phenomena as the global containment of communism, the Vietnam War, accelerating spending for entitlement programs, and many other things.

Setting aside the search for an optimum, I shall seek the answers to some less complex yet still important questions. I shall inquire into the incentives our political institutions create for participants in federal budgetary decision-making. Can we identify clearly undesirable consequences of the behavior elicited by these institutions? If so, how might decision-making

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processes be altered to establish incentives for improved behavior? In seeking answers to these questions, I shall employ as my analytical framework the concepts and principles of public-choice analysis.[1]

Budgetary Decision-Making

Public-choice analysis yields useful insights into the political process by focusing on the interactions among three sets of participants in public budgetary decision-making. The first set contains the *principals*, namely, the general public. Decisions must be made about the allocation of the public's income and wealth among many competing collective and private purposes.

The principals' *agents* fall into two categories: first, the elected representatives—the president and the Congress—and, second, the employees of the executive branch's administrative departments, in common parlance, the bureaucrats. The representatives play vital roles in obtaining and allocating funding for programs. Political appointees and professional managers in the executive departments have responsibility for overseeing current operations and making public investments.

The decision makers stand in a hierarchy. At the apex are the principals at whose pleasure the elected representatives serve. The president, with the advice and consent of Congress, appoints the top executive-branch managers, who in turn oversee the rest of the management team. Budgetary decisions result from the continuous, complex interactions among all these actors, and reflect basic behavioral tendencies as constrained by the institutional environment. I focus here on the incentives and interactions of the general public and its representatives.

Process

Institutions define the limits of the decision-making roles, responsibilities, and opportunities of individuals and their representatives. Many important decisions are made only infrequently. The electorate, for instance, may engage or dismiss its representatives only at intervals of two to six years. Representatives in turn make final decisions annually about taxation and spending. Decisions about taxes, however, specify the rates applicable to designated income, wealth, sales, and other bases. Congress makes no explicit decision about the aggregate amount of taxation; prospectively, the aggregate can be only an estimate no better than the economic and behavioral assumptions underlying it. Similarly, the representatives make decisions about so-called nondiscretionary outlays in terms of rates to be applied according to personal characteristics such as age, health, occupation, prior

1. Useful surveys include Mitchell and Simmons (1994), Mueller (1989), and Stevens (1993).

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earnings, employment status, and so forth. Government officials make decisions about revenues and outlays separately, without firm coordination and without strictly enforced limits.

The budgetary process results in the creation of a common pool of funds from which to finance a large variety of programs, including income transfers to individuals and businesses as well as the direct provision of goods and services. The process converts privately generated income and wealth into common property to be allocated among potentially unlimited alternative uses. Nothing links a particular public program with the private sacrifices required for its operation. Assessing the personal distributions of benefits and costs associated with the various programs is impractical, and likely to remain so.

Consequences

Tragedy of the Commons

The budgetary process just described creates incentives and consequences similar to those associated with the so-called tragedy of the commons. This occurs when the absence of private property rights to a depletable resource creates incentives for potential users to exploit the resource excessively. Exploiters act as they do because each one knows that if he does not exploit the resource, someone else will.

Prominent examples include common property in pastures, ocean fisheries, and crude petroleum pools (Scott 1955, 117ff.). Crude petroleum, for instance, often lies in subsurface pools above layers of water under great hydrostatic pressure. Initially, no one knows much about the size, shape, and extent of the pools; information accumulates as exploration proceeds. In these circumstances, specification and enforcement of private property rights in petroleum have posed great difficulties, and judges called on to adjudicate disputes have declared the petroleum subject to a rule of capture—that is, it would become the property of whoever brings it to the surface and takes possession of it there. Thus, so long as the oil remains under the ground, it remains "up for grabs." Often, numerous candidates for ownership can gain access to the subsurface pools via wells drilled from their surface properties. Each has an incentive to capture the oil as quickly as possible, as otherwise it will be lost to neighbors operating according to the same incentive.

Tragic consequences ensue because the absence of precapture property rights induces producers to remove the resource at rates extremely detrimental to the ultimate amount recoverable, thereby diminishing the present value of net benefits. Excessive rates of removal result in the channeling of

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water through the petroleum, thereby cutting off large volumes that could have been much more easily recovered with a more gradual release of subterranean pressure, which would permit the water to encroach more slowly and evenly, forcing more of the oil to the wells and through them to the surface.

By converting private property into common property, the public budgetary process creates its own form of tragedy. Mainstream public microeconomics indicates that the common fund should be allocated to the creation of "public goods"—nondepletable goods providing benefits simultaneously to all at no direct charge. In practice, however, the common fund becomes the object of attempted alienation by interest groups striving to secure allocations of benefit mainly to themselves. As a result, the common fund most often finances not pure public goods but the proverbial all-too-depletable pie to be divided among competing claimants.

In short, the budgetary process converts private property into common property "up for grabs." The public treasury becomes an irresistible target for concerted efforts at appropriation under the threat of imminent loss to other claimants. Such threat creates even greater incentives for overstating one's desires for government programs than that normally associated with zero-priced public goods. The fund gives rise to both a ferocious defense of established entitlements and an endless, frenzied scramble for new ones. Thus the tragedy of the commons constitutes an integral and pervasive aspect of the government's budgetary process.

The struggle over allocations from the common fund calls forth a range of strategies and tactics limited only by the ingenuity and huckstering skills of all concerned. Voters employing the franchise to gain command over real resources attempt to elect representatives who will be effective in securing the desired allocations. Rampant hyperbole and crisis-mongering characterize the efforts to establish the superiority of one faction's purposes over those of competing claimants (Higgs 1987, 238). Such exaggerations also provide justification for attempts to increase the size of the common fund.

Overall, the process creates incentives to strive strenuously to avoid contributions to the common pool while striving equally strenuously to make withdrawals from it (Wildavsky 1992, 15). The principals have no incentive to judiciously balance the benefits expected from public programs against the sacrifices of personal opportunities that conduct of the programs requires. The process creates opportunities to benefit at the cost only of other people's lost opportunities. Not surprisingly, this method of fiscal decision-making sets in motion notable tendencies toward inefficiency, inequity, and infringements of personal freedom.

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Opportunities for Rent Seeking

Rent seeking is a public-choice concept useful in describing the consequences of established processes of public budgetary decision-making. In general, rent seeking refers to seeking income or wealth by means of legal but unproductive activity such as uninformative advertising, acquisition of market power, or lobbying for subsidies, for favorable regulatory rulings, and for entitlement outlays.[2] Here I am concerned with budgetary rent seeking: attempts by citizens and their representatives to gain allocations of funds from the budget for purposes of interest primarily to themselves at a cost borne mostly by others.

The budgetary process described earlier results in inefficiency because it creates opportunities for rent seeking. Thus, it encourages the transfer of resources from directly productive to directly unproductive activities. Individuals find it more advantageous to live unproductively, tapping the common fund, than to earn income by directly productive activity.[3] Because of the opportunities to live at the expense of others, rent seekers have less incentive to supply personal services, to save, to acquire human or tangible capital, or to engage in entrepreneurial activities. Not only are such efforts less needed to gain wealth; they are also less rewarded, inasmuch as part of the income they generate will be coercively drawn into the common fund.

Voting: A Crude Signal of the Principals' Preferences

The public budgetary process results in inefficiency also because public programs conform to voters' preferences only approximately at best. The infrequent opportunity to select representatives has already been mentioned. Many other factors promote the slippage as well. Agent-representatives serve very large, heterogeneous constituencies (from approximately 500,000 to more than 260 million people). Most of the principals can communicate their preferences only in the form of aggregates or samples to which they belong. In neither case can the representatives comprehend the astronomical number of details about their principals' preferences that are pertinent to rational budgetary decision-making.

Moreover, voting totals reveal nothing about the intensity of the individual preferences they tally. Votes indicate only whether a voter's preference is for or against a proposition or a candidate on the ballot. Many voters

2. For an extended discussion of rent seeking in general, see Buchanan, Tollison, and Tullock (1980).

3. For more detail, see Dale and others (1995) and Wildavsky (1992, chaps. 7, 8).

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may actually prefer a candidate or policy option not listed on the ballot. If individuals wish to express the extent of their willingness to sacrifice time or other goods to obtain the outcomes they desire from government, they must supplement their ballots with campaign contributions or other transfers desired by the representative.

Because of the wide range of issues over which their agents obtain discretion, principals can register their preferences only crudely. Each candidate for election stands for an inseparable bundle of positions on issues. A vote provides at best only a vague indication of the voter's preferences regarding the various issues in the bundle (Wildavsky 1992, 27). Furthermore, candidates may interpret electoral success more as an endorsement of their personal capacity for making judgments on their constituents' behalf than as a programmatic mandate. Guidelines from their principals can constrain representatives only loosely.

Misinformation and Rational Ignorance

Because of the comparative advantage enjoyed by small, well-organized pressure groups in communicating their preferences, both challengers and incumbents receive biased information. Organized interest groups can gain large rents at the expense of much larger groups of taxpayers who individually suffer only small losses. Pressure groups therefore find it worthwhile to inform themselves and their legislators about the intricacies of issues in order to promote their special interests. They also gain by channeling campaign funds to representatives who cooperate in befuddling the general public, reinforcing the rational ignorance of the masses about the incidence of program costs and benefits.

Positions presented by would-be representatives usually leave much to be desired, at least from the perspective of rational choice. Candidates typically state their positions in qualitative (for or against) terms, even though deciding how much to tax and spend requires choosing a single point along a continuum of alternatives. Candidates avoid clear statements that would reliably indicate the positions they will take on specific questions. They appeal to base emotions. Rather than paying careful attention to the weighing of unavoidable trade-offs, they exaggerate the negative qualities of opposing candidates. In terms of substance, campaign rhetoric verges on a perfect vacuum.

Having gained office, agent-representatives continue to gain advantage by dissembling. They routinely declare, for instance, that they are cutting taxes and spending when in fact they are planning and implementing increases. Wishing to mollify taxpayers while simultaneously expanding programs that enhance their own power, prestige, and capacity to bestow

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benefits, they reconcile these conflicting ends by resorting to obfuscation. Political representatives report "cuts" as if they refer to actual taxes or outlays, when in fact they refer to increases at rates below those previously projected. References to the projected increases as changes required by the "current services budget" compound the obfuscation (Miller 1994, 126). Such distortions can hardly fail to confuse the public.

Representatives often design taxes in such a way that taxpayers will fail to notice them. Small changes in bases or rates of existing taxes accomplish this end better than introducing new types of tax. Maintaining the high "temporary" or "emergency" rates accepted by the public during national crises serves the same purpose (Higgs 1987). Taxing corporations promotes the misconception that they, not their customers or employees, bear the burden. Obscure exemptions create wide disparities in actual tax rates. Mysterious acronyms conceal taxes: How many employees know what FICA stands for? Taxes hide under such euphemistic camouflage as contribution, premium, revenue enhancement, user fee, and surcharge. By such subterfuges, agent-representatives increase government revenues without making explicit, unpopular decisions. From rising real incomes, subjected to higher marginal tax rates, governments automatically harvest abundant fruits. Thanks to inflation, many citizens whose incomes have increased only nominally must pay increased taxes (Mitchell and Simmons 1994, 55ff.). As aptly stated in a *New York Times* editorial of 27 December 1938, "To enable a legislator to vote for appropriations bills and at the same time to avoid voting for increases in taxes is to provide him with the politician's paradise" (cited in Wildavsky 1992, 70).

Unable to effectively express their preferences through participation in the political process, ordinary citizens have little inclination to express them at all and have every incentive to remain rationally ignorant of political and governmental affairs. In any event, an individual's vote—among hundreds, thousands, or even millions of other votes—has virtually no chance of determining the outcome of an election. Lacking the capacity to put their knowledge to effective use, individuals have no incentive to consider their preferences carefully or take the trouble to express them, whether the issue be choosing representatives or expressing a preference on bond issues, initiatives, referenda, and other questions. The franchise, treasured by people deprived of it by authoritarian or totalitarian regimes, turns out to be an expendable burden. Hence the oft-lamented low voter turnout.

Are rational ignorance and rent seeking compatible? The premises and logic underlying the explanation of rational ignorance would seem to imply that voters pay no attention whatever to political matters. Such complete inattention would embrace their identification of personal preferences regarding any collective decision, including those undergirding rent seeking.

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In my view, however, rational ignorance and rent seeking refer to tendencies, not to absolute and exclusive determinants of behavior. Therefore, both can operate simultaneously as major influences on the nature and extent of citizens' participation in budgetary decision-making, each contributing to social irrationality in the allocation of resources. In my view, voters concern themselves primarily with making specific claims on the common fund while remaining largely ignorant of and hostile to specific allocations others consider worthwhile. They focus on the immediate requirements of establishing claims on the budget, not on the rational generation of revenues for it or the rational overall allocation of funds from it.

One might wonder, however, why we should worry about the voters' ignorance if they are only striving for inefficient outcomes in the first place. Isn't it possible that the politicians' misrepresentations and the citizens' rational ignorance will combine to produce an optimal allocation rather than the overallocation to which the commons incites them? Yes, it is possible. More likely, however, rationally ignorant citizens will exaggerate the value of the benefits of favored programs while remaining blissfully oblivious to the forgone benefits of others. Moreover, politicians' misrepresentations most often suggest and promote opportunities for constituents to gain benefits at the expense of others, thereby reinforcing the tendency of rationally ignorant constituents to strive for excessive allocations from the common fund.

In view of the severe informational deficiencies associated with the current budgetary decision-making process, no one should be surprised if, after the votes have been counted, a spirited debate ensues as to the meaning of the outcome. The victors claim a mandate for their favored programs, and the vanquished stoutly oppose that interpretation. Given the uncertain meaning of the outcome of the election, the expressed preferences of the voters can serve as little more than loose constraints on their agent-representatives, who gain access to the common fund, from which they proceed to finance perks for themselves and programs for their financial backers. Once elected officials have occupied their offices, many campaign promises evaporate like the mists of morning.

Other Sources of Inefficiency

Agent-representatives have an incentive to enlarge the pool of common funds. The larger the pool, the greater are their power, prestige, and opportunity to buy votes by returning (via government programs) the public's own money. Although the hostile reactions of voters temper this incentive somewhat, the representatives' discretion in allocating from the common fund provides them with a source of power, influence, and a potentially decisive advantage in retaining their offices. They tax opponents and reward

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supporters, all in the name of public purposes. By so doing they further distort the incentives of both groups.

The degeneration of decision-making into a struggle for appropriations from the common fund exacerbates the tensions and conflicts already inherent in a society where groups have strongly conflicting priorities. Voters and representatives make their decisions in an emotionally charged atmosphere of exaggerated claims, illusions, and strife often attended by ethically questionable tactics. Such conditions hardly foster careful, detached consideration of and selection from alternative uses of resources. Over time the population becomes divided into emotionally committed blocks concerned as much with prevailing over opponents as with rational allocations to a limited number of programs supplying, to a reasonable approximation, public goods.

Inequities

Established budgetary procedures provide incentives for decisions widely regarded as inequitable. Similarly situated people pay extremely varying taxes.[4] Nor does anyone perceive equity in the ability of representatives to allocate funds, often in obscure ways, to their actual and potential supporters at the expense of others.

Social Security, increasingly perceived as a massively fraudulent redistributive scheme, provides perhaps the most troubling example (Orr 1980, 222ff.; Mitchell and Simmons 1994, 139; Miller 1994, 128). Under this scheme, involuntary participants pay taxes on earnings into the Social Security trust fund during their working years and receive benefits in old age. The procedure creates an illusion that the benefits derive from the accumulated "contributions" of the retiree's own earnings. Suffering from this illusion, most recent recipients seem absolutely convinced of the propriety of their pensions. In fact, however, agent-representatives have found it advantageous to set benefits at such high levels that current tax receipts must be used to finance the payments to retirees (Wildavsky 1992, 467). For the most part, currently received benefits constitute transfers from current earners to current retirees. Current earners operate under an understanding to the effect that their pensions eventually will be funded by taxes on future earners, all unconsulted and many yet unborn. This endless chain of vague, externally imposed obligations is sometimes said to constitute a "social contract." Aside from its not being a valid contract in any legal or moral sense, it promotes fraud and illusion on a massive scale, fostering

4. Bartlett and Steele (1994) present dramatic and extensive anecdotal evidence of inequities in personal tax obligations.

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inefficiency, inequity, and damage to individuals' sense of responsibility for themselves.[5]

Because would-be representatives strive to attain a majority of the votes, they have an incentive to promise benefits to far more people than the truly needy. In truth, the truly needy get little in any event, though their existence often permits politicians to serve other constituents under the pretext of helping the needy. In sum, existing institutions promote the funding of transfers to individuals quite capable of taking care of themselves, to the detriment of others including those most genuinely in need of assistance.

Infringements of Personal Freedom

Many people condemn the present budgetary decision-making system most bitterly because of its subjection of individuals to government commands under threat of overwhelming force to impose heavy penalties for noncompliance. Nearly all people regard subjection to commands as distasteful, even if the government requires them to do what they believe best and would have done in any event.

Far more offensively, however, the government compels citizens to contribute to funding programs that many consider ill-advised, unjust, immoral, and downright abhorrent as well as adopted at the urging of political opponents. Even as they strive for excessive allocations to programs that benefit themselves and their friends, voters deplore the use of their taxes to pay for the unworthy purposes of others. Accurate measures of such phenomena are lacking, but undoubtedly they are common. Items on the long list would include subsidies to large corporations, rich farmers, manufacturers of unneeded military equipment, vendors to unneeded military bases, upper-middle-class students, wealthy retirees, and an underclass addicted to welfare. A system that requires people to contribute to such counterfeit public purposes, widely regarded as unworthy, achieves the remarkable outcome of being simultaneously inefficient, inequitable, and destructive of individual freedom.

Ill Effects on Attitudes

Current institutions have serious detrimental effects on attitudes. First, rather than maintaining a sense of responsibility for supporting themselves, many people develop a sense of entitlement to being supported by others

5. As impending demographic changes threaten to overwhelm the present system, representatives have begun to consider remedial measures, though their public utterances fall far short of a forthright appraisal. Nor is Social Security the only example of a massive shifting and concealment of public burdens. See Higgs (1987, 62–67) for additional discussion.

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(Samuelson 1995, 14). Individuals have a primary social responsibility, however, to care for themselves, either separately or in voluntary associations. Failing in this regard, they become a burden to others rather than a source of assistance to those who genuinely need and deserve help the most. The confiscation of individuals' resources to support the common fund diminishes their capacity to care for themselves even as it encourages them to strive for support from others. Second, the limited, infrequent, and crude means of expressing budgetary preferences give rise to a sense of impotence, resignation, and cynicism. The costs of attempting to express budgetary preferences are large and the outcomes uncertain. Rational individuals conclude that tolerating, ignoring, or remaining oblivious to the deficiencies of the budgetary decision-making process makes more sense than attempting to change it.

To summarize, the interaction of established institutions for public budgetary decision-making with basic human behavioral tendencies results in choices with serious ("critical" in contemporary discourse) undesirable consequences. Present institutions create a common pool of resources "up for grabs." Many people find staking claims to it more promising than productive activity. Some individuals become so intent on tapping the common fund that they fail to carry out their fundamental social obligation to care for themselves, thereby losing their capacity to contribute to the care of the less fortunate. Entrepreneurial representatives strive for success in rent seeking on behalf of their constituents rather than seeking to promote efficiency, equity, and personal freedom.

Scholars studying public choice have made a convincing case that these behavioral tendencies of principals and agents are normal, pervasive, stable, and predictable reactions to a specific institutional environment. To have much chance of success, attempts to improve the budgetary decision-making process must take these basic behavioral facts of life into account.

Desirable Features of a Better Process

With the preceding analysis as necessary background, I now proceed to identify some desirable features of an improved process of budgetary decision-making. The general rule is that the people, as the ultimate authority in the democratic process, should have an opportunity to participate more directly in making decisions about the allocation of their wealth.

The process should provide an opportunity for individuals to express their shared commitment to contribute to common purposes and to set firm limits to the resources they wish to make available. Serious consideration of public programs by the individuals who will actually experience the costs and benefits is essential for rational budgetary decisions. Only those

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indiiduals can make the elemental assessments necessary for evaluating the net benefits of the programs.

The process should provide an opportunity for clear expression of the public's preferences regarding the share of their income to be used for government programs. Preferences should be stated more directly, precisely, and frequently than current institutions permit.

The process should avoid the compulsion of taxation of those with inadequate participation in fiscal decision-making. Government should compel citizens to pay taxes only with the frequent, clear, and unmistakable advice and consent of the compelled. The people should be convinced that gains in efficiency, equity, or other goals plainly more than compensate for the losses of individual freedom inherent in compulsory exactions for collective purposes.

The process should aim to produce a net benefit for all. A decision to tax and spend should signal a commitment to pursue common goals with a wide distribution of the inevitable opportunity costs. The division of society into exultant victors and bitter, disgusted, and defiant vanquished should be avoided.

The process should avoid creating opportunities for rent seeking not only by coalitions from the general public but also by agent-representatives exploiting their strategic status to "buy" votes with the public's money.

Some Proposals to Limit the Budgetary Tragedy

The blatant inefficiencies, inequities, and infringements of individual freedom have inspired a variety of attractive proposals for institutional changes, including tax earmarking, constitutional limits on taxes, and many others (Wagner 1992, 105). Most proposals focus on the roles of Congress and the president and involve placing stricter constraints on their budgetary decision-making (Miller 1994; Mitchell and Simmons 1994; Wildavsky 1992, 415ff.). I cannot discuss here the relative merits of all the various proposals. Suffice it to say, however, that without more direct, decisive participation by the principals, critical deficiencies will remain in the budgetary decision-making process.

More adequate procedures requiring personal consent for taxation can limit the size of the budgetary commons (Wagner 1992, 119). Here are four simple, specific steps to enhance individual participation that satisfy the criteria for an improved budgetary process laid out in the preceding section. First, individuals could participate in determining the tax share of personal income. Second, they could receive tax credits by contributing to alternative providers of certain quasi-public goods, especially social services and income supplements. Third, they could opt out of programs providing divisible

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goods or services. Fourth, taxpayers could earmark part of their payments to go into a fund for rebates (Brubaker 1989, 63–64).

Determining the Tax Share

By participating more directly, individuals can indicate the limits of their willingness to submit to the compulsion of taxation in order to receive the mutual benefits of collective action. In turn, such limits on taxation would curtail the pool of common funds with all its potential for negative consequences.

How specifically might such participation be brought about? Individuals could submit annually with their income-tax return a response to the following solicitation: "What percentage of your income and of all others' incomes shall be used to support federal programs? The median reported percentage will be a guideline for Congress and the president."

Responses to this solicitation would provide valuable information because they would indicate each individual's willingness to share a commitment to financing public programs while fully cognizant of the necessary sacrifice of personal income. The responses would be quantitative and therefore would reflect much more precisely the intensity of individual preferences. Individuals would be able to express their preferences annually on an important, specific issue. The responses would constitute the public's recommendation for the limit on the resources to be taken by government and therefore for the overall extent of government programs. Such recommendations would provide invaluable guidance, not currently available, to representatives drafting budgetary legislation.

Well-established concepts and principles of public-choice analysis raise concerns, however, about how taxpayers would actually respond. If free-rider problems, infinitesimal expected net benefits, and the consequent tendency toward rational ignorance have prevented large numbers of individuals from participating in the political process, why should they bother to respond accurately to a request for the percentage of their own and others' income they are prepared to sacrifice to the general revenue? Obviously the proposed solicitation itself will not remove the incentives that give rise to free riding and rational ignorance.

Still, the relatively low marginal cost of responding probably would result in higher rates of participation than those typical in general elections. The issue of taxes would be especially salient in taxpayers' minds as they filled out their returns. They could indicate their preference simply by marking a number on a form that they must complete in any event. The solicitation focuses on a matter of direct, specific concern to individuals, namely, how they want their income divided between their own purposes and the funding of government programs.

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Would taxpayers respond to the question truthfully? Most likely they would. Reference to a single percentage for all incomes limits the opportunities to ride free by imposing taxes on others to fund one's favored programs. Anyone expressing a preference for a higher tax rate for others simultaneously commits himself to the same higher rate. Moreover, the solicitation's design makes it highly improbable that a respondent could gain by misrepresentation. An individual misrepresentation almost always would change only the respondent's position in the half of the array that he would have occupied on the basis of an honest report. Therefore, the probability of moving the median by even a minuscule amount would be negligible. Even a weak ethical inclination to respond truthfully would suffice to establish within a narrow range of error the median preference of an honestly stated distribution of preferences (Brubaker 1989, 131ff.; 1984, 544ff.).

Even if the procedure elicited greater participation and reasonably truthful responses, rational ignorance would remain. One may still wonder, then, about the desirability of greater direct involvement by citizens in budgetary decision-making. How would more direct participation work when voters are rationally ignorant?

It would work by making use of the fact that although most citizens have little incentive or capacity to become well informed about the details of government programs, they alone possess vital information, even if initially only in the form of their own latent inclinations. Only they can know their preferences regarding the share of resources to allocate to public as opposed to private purposes. Even if voters remained no better informed than before, their responses to the solicitation would reveal extremely important information that previously had remained dispersed throughout the community.

In addition, the solicitation process itself can contribute to making the public more informed. Simply placing the share of taxes prominently on the public agenda and requesting citizens to state their preferences would heighten an awareness of personal preferences and foster their refinement into better-considered opinions. The question posed in the solicitation surely would become the subject of intense discussion and recommendations by various experts and advocates. It would encourage debate on a clearly defined strategic issue presently absent from the agenda discussed in electoral campaigns. Today, the vast majority of citizens probably have only a vague if any idea of "tax freedom day" as indicative of the share of personal income captured by taxation. That share, a fundamental issue of political economy, ought to be decided by the general public, which occupies the apex of the democratic hierarchy and makes the actual sacrifices.

The solicitation process also reduces ignorance by leading citizens to make an explicit connection between the benefits they expect to receive from government and the costs they will have to bear. It reduces the

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possibilities for making demands for government programs while remaining rationally and blissfully ignorant of the costs such demands impose on others. Under the proposed arrangement, the demand for a large public budget would have to be joined with an immediate, explicit acceptance of forgone opportunities in proportion to the sacrifices of all other taxpayers.

Supposing, however, that tendencies toward rational ignorance would be reduced but not eliminated, do we want uninformed citizens making collective decisions for us? Alternatively, why would rationally ignorant citizens want to make collective decisions for themselves instead of delegating their decision-making power to better informed agent-representatives? These questions concern the workings and merits of direct versus representative democracy. In general, the most defensible arrangement would give the principals the power to decide the strategic issues; they would delegate decisions about details to their agents. If the public is to decide anything directly, the share of their income taken by taxation seems a plausible candidate. This procedure looks even more appealing in light of the emerging understanding of the profound deficiencies of indirect democratic process for determining the tax share (Mitchell and Simmons 1994).

Tax Credits for Contributions

Allowing taxpayers credit against their tax liability for certain types of contributions also would facilitate the attainment of the goals stated in the guidelines. This arrangement would permit a clearer, more precise statement of preferences because individuals would be able to use their own funds to support directly the organizations they perceived as superior providers of certain quasi-public goods. People would be able to support programs they favor and avoid supporting those they regard as an imposition. Opportunities for rent seeking would be reduced, as individuals' taxes would be less available for programs advocated by others. Of course, tax credits would have to be confined to the support of programs providing quasi-public goods. (Arguably, government has no business providing any other kind.)

People can abuse tax credits, of course, so guidelines for eligibility would have to be developed, published, and enforced. Such administration, however, resembles that already in place with respect to itemized deductions from taxable income. Long experience in that regard indicates that administrative problems related to tax credits would be manageable (Goodman 1995, 39ff.). All things considered, allowing taxpayers a wider range of tax credits for contributions supporting nongovernmental suppliers of quasi-public goods would improve our public budgetary decision-making institutions.

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Opting Out

Individuals could satisfy their preferences better if given an opportunity to "opt out" of governmental programs. Government would allow individuals to choose not to participate, that is, neither to receive the benefits nor to pay for public programs providing goods or services salable in units suitable for individual use. Prominent examples include retirement pension plans and various forms of insurance such as those applicable to medical care, disaster relief, and compensation for workplace injury. Provision for opting out would enlarge the domain of individual discretion in the use of personal earnings. At the same time, it would help to diminish the common fund upon which countless rent seekers now prey.

Citizens' latitude to shift their funds from taxes to private suppliers of quasi-public goods or to reduce their taxes by opting out of certain programs would spur competition, which would improve efficiency not only because private suppliers would operate at lower costs but also because competition would prompt improved public-sector performance. Many studies show that governmental entities cannot operate as efficiently as private competitors; if, under an opting-out system, this were found to be the case, taxpayers would have opportunities to allocate their funds to the more efficient providers. For those who value economic freedom itself, opportunities for earmarking or opting out would increase the scope for individual as opposed to collective decision-making regarding the allocation of their own incomes.

Earmarking for Rebates

An option for taxpayers to earmark an unlimited share of their tax payments to a fund for rebates also would enhance personal freedom. The fund would be returned to all taxpayers in proportion to their initial tax payment. Because each taxpayer pays only a negligible proportion of total tax revenue, each could receive a refund of only a negligible portion of his or her own funds earmarked for rebate.[6] An individual's refund would depend almost entirely on the earmarkings to the rebate fund by others. This option would provide taxpayers as a group with an effective opportunity to limit government revenue.

6. Alternatively, the refund to each taxpayer could be based solely on the earmarkings of all others to the fund for rebates.

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Conclusion

Current institutions for public budgetary decision-making create incentives and opportunities that give rise to a pervasive "tragedy of the commons." They result in inefficiencies, inequities, and infringements of freedom. More direct participation by the general public in fiscal decision-making can contribute significantly to mitigating the tragedy. First, individuals can provide information about their preferences regarding the share of their incomes to allocate to public purposes. Second, they can reallocate a portion of their tax liability to private providers of certain public services who they expect to perform better than public-sector providers. Third, they can opt out of—neither supporting nor benefiting from—government programs providing salable goods or services divisible into units suitable for personal use. Fourth, they can earmark their taxes to a fund for rebates. Separately or in combination, these procedures can significantly promote greater rationality in economic decision-making and help to restore some of the economic freedom individuals have lost as government has grown.

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Market-Based Environmentalism and the Free Market

They're Not the Same

ROY E. CORDATO

Since the collapse of communism in Eastern Europe, overtly socialist solutions to public policy problems have fallen into disrepute, even among socialists. It now seems to be widely accepted among policy analysts of both the Left and the Right that direct government control of market activities and market outcomes—the so-called command-and-control approach to public policy—is an excessively costly way to achieve public policy goals.

Yet despite widespread rejection of outright socialism and command-and-control policies, there is little appreciation of truly free markets and the outcomes they are likely to generate. Policy makers do not value market exchange because it maximizes liberty and personal satisfaction of wants. Instead, policy makers value the market because they can manipulate it to produce a centrally planned outcome. This approach describes so-called market-based environmental policy.

All approaches to market-based environmentalism (MBE) tend to follow the same pattern. As MBE advocates Robert Stavins and Bradley Whitehead (1992) point out, "There are two steps in formulating environmental policy: the choice of the overall goal, and the selection of a means or

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'instrument' to achieve that goal" (3). Specifically, government authorities first select a particular outcome (e.g., level of sulfur dioxide emissions or amount of recycled paper used in grocery bags) as a desirable goal. Viewing the behavior of individuals making exchanges in the relevant markets as something to be manipulated through public policies that create incentives to "do the right thing," policy makers then select an appropriate means for this purpose. In environmental policy, the two most highly touted instruments are excise taxes and tradable permits. These market-based approaches, advocated by professional economists and think-tank policy analysts on both the Left and the Right, actually use markets against themselves. In reality they are often meant to thwart the outcomes of true free-market activity.

I shall criticize the arguments advanced for market-based environmentalism, the most important of which have their roots in Pigovian welfare economics.[1] My criticism relies on arguments advanced by F. A. Hayek to demonstrate the impossibility of efficient central planning and by James Buchanan regarding the subjective nature of costs and benefits. The economic arguments for MBE have given it widespread appeal across the political spectrum. I shall argue that MBE has the same defects as full-blown socialism: it is inconsistent with individual liberty and, in practice, impossible to implement successfully.

Environmental Problems: Market Failure or Government Failure?

The reigning view of environmental problems considers them as inherent in a free society. If people are free to pursue their own self-interest—to produce and consume whatever they want, how and when they want it—polluted air and waterways, littered streets, and depleted natural resources will result. The typical characterization in most of the social science literature is that such problems represent "market failure." Pollution and environmental degradation are cited as evidence that Adam Smith was wrong, or at least naïve. People pursuing their self-interest do not necessarily advance the well-being of society as a whole. Therefore, it is not only appropriate for, but incumbent on, government to correct the market's failings.

This view constitutes a misunderstanding of the nature of a free society and a free-market economy. Contrary to the standard view, environmental problems are not an unavoidable side effect of a free-market economy. Instead, they occur because the institutional setting—the property rights structure—required for the operation of a free market is not fully in place.

1. This area of economics is named for economist A. C. Pigou, who originated the analysis. See Pigou ([1927] 1952).

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Because, in all modern societies, government has taken nearly complete responsibility for the establishment and maintenance of this institutional setting, environmental problems are more appropriately viewed as manifestations of government failure, not market failure.

Environmental Problems as Conflicts over the Use of Property

In current debates over environmental issues, it has become common to abstract from individual decision makers in society and to view certain uses of resources as inherently problematical. Traditionally, conditions such as air and water pollution aroused concern to the extent that they harmed people. More recently this view has been abandoned. Now many argue that certain uses of resources should be regulated or proscribed not because they harm third parties but because they degrade "the environment." For example, for many, strip mining, the use of landfills for the disposal of trash, and the cutting down of old-growth forests do not constitute problems because of harm to humans. Indeed, the fact that humans usually benefit from these practices is viewed with disdain. The traditional view of environmental problems, that they should concern policy makers because these problems involve harm to human beings, has been turned on its head. The modern view, adopted by many who advocate market-based "solutions" is that harming humans is justified in the pursuit of "saving" some aspect of the nonhuman environment.[2]

In a free society, concern for human beings must take center stage. In assessing environmental problems, the core question is how and why such problems interfere with individual decision making, construed as the formulation and execution of plans. As all formulation and execution of plans involve the use of physical resources, and such plans can legitimately employ only resources to which one has rights, any environmental analysis focused on the individual decision maker must pay attention to property rights.

For example, air pollution creates a problem to the extent that it interferes with individuals as they formulate and execute plans. This can happen only if the pollution somehow interferes with an individual's exercise of rights to his or her property or if uncertainty prevails concerning who actually has the rights to a particular resource. Viewed in this way, all environmental problems involve conflict over the use of property. Person A and person B are attempting to use resource X for conflicting purposes. Either A or B clearly has the relevant rights to X but these rights are not being

2. For an excellent discussion of this issue and the motives underlying much environmental advocacy, see Kaufman (1994).

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enforced, or the rights to X have not been clearly defined, that is, neither A nor B nor anyone else has the relevant rights to X. In the former case, the environmental problem is one of property-rights enforcement. In the latter case, an authoritative decision must be made regarding who should have the rights. The foregoing conditions establish the relevant parameters of environmental problems from a humanist, as opposed to an environmentalist, perspective.

Two simple examples can highlight each of these possibilities. Imagine a community with a cement factory that emits dust into the air without the consent of people nearby. Because of the dust, people in the community must wash their cars and house windows more frequently. The dust also soils clothing hung out to dry and creates respiratory problems for those who breathe it. This problem is clearly one of property-rights enforcement. The problem arises not because the dust is emitted into the air but because it has direct contact with what is indisputably people's property—their cars, houses, laundry, and lungs—and thereby interferes with their planned use of it. Here the conflict concerns the use of property to which ownership is clearly defined but regarding which some rights are not being strictly enforced.

An example of the second type of problem involves the use of a public waterway such as a river. A factory uses the river as a receptacle for waste generated by its production process. Downstream, homeowners use the river for fishing and swimming. Suppose factory waste renders the river unfit or at least less fit for these purposes. The central problem here is not simply that the river is being polluted, but that plans for its use are in conflict. Unlike the rights in the cement-dust case, the rights to the river are not clearly defined, so the public policy issue involves who should have what rights.

Property rights must be clearly defined and enforced in order for a free market to exist. If problems arise because these institutional requirements are not met, it is wrong to blame the free market for the problem. In each of the examples just presented, a problem arises because the institutional prerequisites of a free market are, in one way or another, not fulfilled. The problems should not be blamed on market failure when a free market is prevented from coming into existence. The problem actually represents institutional failure, as the institution of private property itself is not being sustained. From a public policy perspective, a "crack" exists in the property-rights structure. In general, a genuine free-market policy would first identify the specific interpersonal conflicts that have emerged, then identify and repair the flaws in the property-rights structure that have given rise to the conflicts.

This assessment suggests that "free-market environmentalism" is simply an attempt to advance the free market in areas plagued by conflicts over

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portions of the physical environment. It should be noted, however, that the focus is on human freedom and welfare and not the nonhuman environment itself. The result of free-market policies in dealing with such issues may not always be consistent with goals of environmentalism as typically construed, although often they will be.[3] The defining characteristic of free-market activity is the institutional setting in which it occurs, not the outcomes it generates.

In the ideal institutional arrangement, all resources are privately owned, and all owners can employ their property in any way they wish. The only legal constraint is that no one be allowed to infringe the equal rights of others.[4] Once these conditions are established, the market process is open ended. The actual results reflect the interaction of individuals pursuing their own objectives, often by making exchange contracts with others. True free-market public policy should not focus on particular outcomes with regard to the environment or anything else, including prices, costs, and output levels. Instead, it should focus on correcting flaws in the institutional setting that are giving rise to human conflict and thereby preventing the efficient pursuit and attainment of goals. From this perspective, what have come to be called environmental problems are indeed problems in many cases, because they are rooted in deviations from the optimal property-rights structure.

On occasion, however, establishing a free market will conflict with the goals of environmentalism as usually construed. An example pertains to the treatment of endangered species. It has become common for the U.S. Fish and Wildlife Service (FWS), in enforcing the Endangered Species Act, to place controls on the use of privately owned land deemed either an actual or a potential habitat for an animal listed as endangered. From a free-market perspective, such restrictions become the source of institutional failure rather than the solution of market failure. In such cases the policy generates a conflict between the actual owners of the land and certain nonowners who use the state to gain decision-making power over the use of the property. A free-market advocate, environmentalist or not, would oppose such policies and favor the individual whose property rights are being transgressed. Free-market environmental policy cannot be unbiased or even democratic. It must be distinctly biased in favor of whoever has title to the portion of the environment in dispute.

Of course, the free-market environmentalist would oppose the FWS

3. For an excellent discussion of how respect for private property and free markets often comports with the goals of environmentalism more broadly conceived, see Anderson and Leal (1991).

4. For discussions of the economic efficiency implications of this institutional framework, see Kirzner (1963) and Cordato (1992). For discussions of some of the philosophical aspects, see Rand (1967) and Rothbard (1973).

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regulations, but might be willing to attempt to raise funds to purchase rights to the desired property for the purpose of preserving the habitat. This kind of activity distinguishes a general supporter of free markets from a free-market environmentalist. They differ in their private activities, not in their public policy stance.

In general, free-market advocates argue that nature will fare better under a regime of private property and free exchange than it will under other institutional arrangements, because the profit motive, coupled with the obligation not to violate the property rights of others, leads to the conscientious stewardship of natural resources. As stated in one study in the growing literature:

> Unfortunately, under current institutional arrangements, too many people find that environmental destruction rather than conservation is in their self interest. Most of our environmental problems arise because resources such as air, water, forests, and many species of birds, fish, and other wildlife are *owned in common*. Because these resources have no owners, they have few protectors and defenders. Because there is no market for these resources, people have poor incentives to maintain their value.... The institutions that have worked well for us in other areas of economic life include private property, markets, a price system and methods for punishing people who violate the rights of others.... Government is needed to create the legal framework. Within that framework, people should be free to experiment and innovate to solve problems which large bureaucracies are unlikely to solve. (Task Force Report 1991)

Free-market environmentalists have done a good job of demonstrating how the institution of private property has led in the past, and could lead in the future, to attaining many of the goals espoused by the environmental movement.

Still, the end result of a free-market process may not coincide with the goals of environmentalists, particularly if those goals require restrictions on the use of resources for their own sake or relate to issues where no physical or economic harm to human beings is involved. Recognizing this fact, most mainstream environmentalists remain antagonistic to truly free markets. But some have also come to recognize that politically controlled markets can be useful tools, in a manipulative sense, for the advancement of their aims. These more mainstream environmentalists, with the intellectual assistance of some segments of the economics profession, are spearheading the recent advocacy of the policies known as market-based environmentalism.

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Market-Based Environmentalism: Stealth Socialism

It is ironic that although the intellectual foundation of MBE has been laid largely by conservative economists, MBE is embraced more or less enthusiastically by liberal environmentalists. The economists have given the environmentalists a means of dispensing with command-and-control regulatory policies while maintaining their command-and-control ends. Whether intentionally or not, many economists, most of them conservative, have become efficiency consultants for the traditionally anti-free-market environmental movement. These economists have demonstrated that the environmentalists can attain their goals more "efficiently" by creating suitable incentives in the market than by setting rigid rules and standards for production processes. Writing as both a conservative and an economist, Murray Weidenbaum, former chairman of President Reagan's Council of Economic Advisers, succinctly states the basic principle of MBE: "In the various circumstances when government does regulate (as in the case of reducing environmental pollution), conservatives prefer that government policy makers make the maximum use of economic incentives. Thus, to an economist, the environment pollution problem is not the negative task of punishing wrongdoers. Rather, the challenge is a very positive one: to alter people's incentives" (Weidenbaum 1992, 497).

Conservative economists have been quite successful in convincing former regulatory zealots in the environmental movement that command-and-control policies are a cumbersome and unnecessarily costly way to achieve their ends. MBE has won the whole-hearted endorsement of the Progressive Policy Institute (PPI), the think tank most closely associated with the Clinton administration. PPI authors Robert Stavins and Bradley Whitehead (1992) state:

> Command and control regulations were powerful in the early battles against environmental degradation, but they have begun to reveal many of the same limitations that led to the collapse of command and control economies around the globe. Command and control regulations are often economically inefficient—that is excessively costly.... Market based policies start with the assumption that the best way to protect the environment is to make it in the daily self-interest of individuals and firms to do so. The key to greater environmental protection, then, is...decentralization—by changing the financial incentives that face millions of firms and individuals in their private decisions about what to consume, how to produce, and where to dispose of their wastes. (iii)

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Clearly, MBE is outcome driven. Its thrust is to manipulate market incentives in order to achieve a centrally planned outcome with respect to the use of natural resources. As argued by Stavins and Whitehead (1992), "Policies are needed to mobilize and harness the power of market forces on behalf of the environment, making economic and environmental interests compatible and mutually supportive. Policy makers must begin to link the twin forces of government and industry" (3). Clearly, MBE differs fundamentally from public policy meant to promote free markets. Whereas proponents of the latter see free markets as a means of fostering liberty and human well-being, proponents of MBE see it as an instrument for "harnessing" the activities of people "on behalf of the environment."

Green Taxes and Economic Analysis

Excise taxes and tradable permits are the two major policy instruments advocated most frequently as part of MBE. The justification for using excise taxes to promote environmentalist goals ("green taxes") has its roots in Pigovian welfare economics. Welfare economics is the part of economic analysis that sets the standards by which economists make public policy prescriptions. Mainstream economists have adopted Pigovian welfare economics, the approach expounded in most economics textbooks. Nearly all advocates of MBE, on both the Left and the Right, give lip service to this sort of welfare economics (Repetto and others 1992; Viscusi 1992; Weidenbaum 1992; Stavins and Whitehead 1992).

From this perspective, the success of market activity depends on market outcomes, particularly the prices and quantities that markets generate. Certain price-quantity outcomes are deemed "efficient," contributing positively to social welfare, whereas "inefficient" outcomes reduce social welfare. When efficient outcomes are not generated, free markets are declared a failure, and the primary purpose of public policy is manipulating the choices of market participants to achieve the correct results.

This approach to environmental policy has many flaws, most of which stem from methodological errors in the economic analysis underlying the policy prescriptions.[5] In the standard argument, social welfare is maximized when markets conform to a set of ideal conditions known as "perfect competition." Perfectly competitive markets have many buyers and sellers, all perfectly informed of relevant market conditions; costless entry and exit; and homogeneous product lines. Given these conditions and the attainment of systemic equilibrium, prices will accurately and completely reflect the marginal costs of production and, as a result, the quantity of any good

5. For extensive discussions of the economics, see Cordato (1992, 1995).

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produced and sold will be efficient. All costs of production or consumption are "internalized," that is, borne by the producers or consumers of the product. The market thus "succeeds" in generating the correct, perfectly competitive outcome.

Within this framework, pollution constitutes a problem because it gives rise to incorrect outcomes. In the cement-dust example, the cement company is not bearing all the costs of its production. People in the surrounding community whose plans are disrupted by the pollution also bear some of the costs. In such cases the price of the product is too low, the amount produced too high. The market is said to fail. If the cement company were bearing all the costs, including the pollution costs now borne by others, its costs of production would be higher, it would produce less, and consumers would pay a higher price for cement.

Policy makers use market-based policies to manipulate market incentives ostensibly to obtain the "correct" result, that is, the result that would occur in a perfectly competitive market. In a situation like that of the example, most economists would advocate levying an excise tax. The goal is to impose a tax on each unit of production of the polluting firm that exactly equals the pollution costs borne by the outside (nonconsenting) community. The firm would then have an incentive to behave as if it bore all the costs of production and hence to generate the sought-after "efficient" market outcome. The tax "succeeds" where the free market "fails." As Weidenbaum (1992) argues, "Pollution taxes serve to correct a serious source of market failure: the absence of 'price' needed to prevent the careless and excessive use of scarce environmental resources. Taxation...is a basic way of working through the price system" (499).

This approach to dealing with pollution problems necessarily leads to the manipulation of markets for the achievement of political goals. The tax "corrects" the market failure only if imposed exactly as economic theory dictates. But the perfectly competitive conditions that the policy is supposed to induce are so highly stylized and otherworldly that they provide no real-world guidance for imposing the appropriate taxes.[6]

To implement the Pigovian program, policy makers must be able to measure the spillover costs associated with the pollution. But as James Buchanan (1981) has emphasized, "Cost is subjective; it exists only in the mind of the decision-maker or chooser.... Cost cannot be measured" (14–15; see also Buchanan 1969). Economically relevant opportunity cost is the satisfaction forgone in choosing to do one thing rather than another. If someone washes his car more frequently because cement dust from a nearby cement plant is soiling it, his cost is the greatest satisfaction he expected to

6. For a detailed discussion, see Cordato (1989, 1992).

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receive by doing something else. Clearly, this is both unmeasurable and unknowable by any outside observer. Therefore the "correct" market outcome also is unknowable. As Buchanan (1969) has concluded, "In order to estimate the size of the corrective tax...some objective measurement must be placed on these external costs. But the analyst has no benchmark from which plausible estimates can be made" (72). Anyone defending the use of such taxes as a means of enhancing economic efficiency would first have to explain how Buchanan's objection can, in practice, be overcome.[7]

Advocates of corrective taxes ignore the subjective-cost issue; they proceed with their analysis as if the problem did not exist. They reach conclusions about social costs without a hint that the numbers cited are supposed to measure something conceptually unmeasurable. For example, one analyst confidently proclaims that "the current net tax per gallon [of diesel fuel] is 13 percent of the price, while the environmental cost per gallon is 50 percent of the price. The tax on this fuel could be raised substantially to promote its efficient use" (Viscusi 1992, 18). In light of Buchanan's arguments, one can only wonder what these numbers actually measure, but clearly they are not measures of economically relevant opportunity costs.

In applications, mainstream welfare economics is timeless and does not allow for change, invoking static equilibrium analysis. Analysts assume that information gathered today relates equally to tomorrow. But such constancy would require that input scarcities, technology, population, and people's preferences remain fixed. Once any of these variables changes, current information—intended to shed light on the costs of pollution and therefore on the correct outputs, prices, and taxes—becomes outdated. Inasmuch as these variables are in reality constantly changing, identifying the appropriate corrective tax is an impossibility. Even if actual opportunity costs were being measured, all cost-benefit analysis would necessarily be based on historical evidence, much of it already several years old when gathered. Any corrective tax would be obsolete even before its calculation.

Both the subjective-cost problem and the time-passage problem exemplify a more fundamental problem of information or knowledge. This dooms all attempts at efficient central planning, including Pigovian corrective taxation. F. A. Hayek articulated this argument against socialist planning in the 1930s and 1940s. He emphasized that the information necessary for

7. Although economists advocating MBE recognize Buchanan's public-choice analysis in assessing the extent to which government activity is likely to correct for market failure, they ignore the implications of Buchanan's cost theory for the use of social cost-benefit analysis. A consistent application of Buchanan's arguments implies that real-world social cost-benefit analysis, including the type suggested by Coasean property-rights analysis, is a logical impossibility outside a perfectly competitive general-equilibrium world. But any world with externalities is not such a world (Cordato 1989).

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central planning "never exists in concentrated or integrated form but solely as dispersed bits of...knowledge which all the separate individuals possess" (Hayek 1948, 77). Pigovian welfare economics rests on a general-equilibrium analysis of the economy. But in order to know the "correct" price-output combination in any one market where the tax is to be applied, the analyst must have the same information for all markets. As attested by an ardent supporter of such taxes, "The general equilibrium model of resource allocation which underlies formal welfare economics represents...a general analysis of the interrelationships of markets throughout the economy...it requires knowledge of the structure of preferences of all consumers and the technologies available to all producers" (Kneese 1977, 57).

Because the data required to manipulate markets as prescribed by the theory are impossible to gather, and the efficient outcome therefore impossible to identify, in practice the model serves merely as "cover" for those seeking to manipulate markets for various purposes.[8] Because there is no real standard by which the adequacy of the data can be gauged, the Pigovian approach to dealing with environmental problems has given rise to a frenzy of green-tax proposals, all claiming to promote economic efficiency.

The most famous, or notorious, of the green-tax proposals was President Clinton's ill-fated BTU tax. Although one may suspect that the real purpose of the proposal was to fatten the U.S. Treasury, its supporters touted the tax as a weapon in the battle against global warming. The proposal was a case study in the methods of MBE. An environmental goal was established: reduction of carbon dioxide emissions into the atmosphere. No evidence was presented that human welfare had ever been impaired by CO_2 emissions (Michaels 1992). Further, the global warming hypothesis—that at some unspecified future date such emissions will harm humans—has been accepted by only a small minority of atmospheric scientists. But proponents forged ahead. A 1990 Congressional Budget Office study, which helped to set the stage for the BTU tax proposal, candidly noted that "although there is great uncertainty about the extent to which such global warming is likely to occur, what its effects might be and the costs of efforts to slow the progress of warming, the potential consequences have led to calls for immediate action" (ix). In other words, regardless of the science or the economics, supporters voiced "calls for immediate action." Ultimately, all such tax schemes promote the goals of the politicians and interest groups supporting them.[9] As with the BTU tax, they have the added

8. For example, the same model is invoked to justify increasing taxes on tobacco.

9. Public choice analysis maintains that politicians and bureaucrats, even if they possess the information necessary to improve social welfare, support laws and regulations that help them achieve their own goals and the goals of their political supporters. For a classic case study of environmental policy making along these lines, see Ackerman and Hassler (1981).

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effect—fortunate in the eyes of many of their advocates—of increasing federal revenues and expanding government control over the use of productive resources.

Tradable Permits Are Not Property Rights

Taxes are one tool in the kit that advocates of MBE carry to the policy making table. Another is tradable permits. Whereas green taxes alter prices in order to affect resource use in accordance with political desires, tradable permits serve as "property rights" for the same purpose. In advocating tradable permits, environmentalists again have taken their cue from ideas originally put forth by conservative economists. Working along lines laid down by Ronald Coase (1960), these economists have emphasized correctly that many, if not all, genuine pollution problems arise from a lack of property rights in the use of resources.

Coase argued that if property rights are clearly defined and well enforced and can be cheaply exchanged, then parties can resolve pollution problems by bargaining. When Coase's conditions are met, there is no need for a cumbersome regulatory apparatus or a government bureaucracy to create an efficient allocation of resources. The "Coase Theorem" does not tell us what the efficient outcome should be. This intellectual modesty distinguishes Coase's argument from the argument of those who invoke his analysis to justify MBE. Although Coase's argument is sound, it says nothing about the nature of property rights, requiring only that once established, they should be freely tradable. Unfortunately, Coase's ideas have been imported into environmental policy debates, not to expand property rights but to justify the rearrangement and restriction of existing rights.

The now-standard approach of the advocates of MBE goes as follows. First, they identify something as excessive, for instance, the amount of waste going into landfills or the amount of fossil fuels used to generate electricity. Then, they arrive at an amount acceptable to the relevant politicians and special interests. To realize this amount, they take away the existing right to engage freely in the activity and then allocate new rights such that the total amount of the activity does not exceed the politically determined target. The new, more restricted "rights" take the form of a specific number of permits, each of which allows an individual or firm to engage in a certain amount of the disfavored activity. Holders of permits may buy or sell them. Holders therefore have a financial incentive to reduce the amount of their own disfavored activity. If a company can reduce its restricted activity sufficiently, it can obtain revenue by selling its unnecessary permits. To reiterate, the objective is not to advance free markets as such but to "harness market forces" to achieve a politically determined goal.

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Tradable permits to pollute are the most commonly espoused form. But other forms are also advocated, where no specific pollution or emission is involved, most notably to promote recycling and to create a market for recycled materials where otherwise none would exist. With respect to pollution permits, which were adopted as part of the 1990 Clean Air Act Amendments, Stavins and Whitehead (1992) describe the system as follows:

> [T]he government establishes an overall level of allowable air pollution and then allocates permits among the firms...in a relevant geographic area so that each firm is allowed to emit some fraction of the overall total. Firms which keep their emissions below the allotted level may sell or lease their surplus permits to other firms or use them to offset excess emissions in other parts of their own facilities. (6)

One may argue that such schemes simply establish property rights to the use of air. And after all, doesn't air quality suffer because no one owns—and therefore protects—the air? Yes, but the real problem is not air quality as such. The real problem is that emissions eventually land on someone's property. In the cement-dust example, problems arise not because the dust is emitted but because it touches people's cars, houses, laundry, and lungs. Tradable pollution permits that might be issued to the cement factory could, depending on the permissible level of emissions and the prevailing cost conditions, still fail to prevent the factory from impinging on the property rights of people nearby. Robert McGee and Walter Block (1994) have argued forcefully that such permits are simply licenses to violate rights and therefore inconsistent with free markets. They maintain that "perhaps the major fault with trading permits is that while they allow market forces to allocate resources, they entail a fundamental and pervasive violation of property rights" (57).

A truly free-market approach would allow the damaged parties to sue the offending parties for remedies rooted in a stricter enforcement of property rights. Plaintiffs would seek either compensation for damages or some form of injunctive relief. Another alternative would be a Coasean solution: the cement companies would purchase the relevant rights from the affected parties.

If a tradable permit implicitly grants the polluter the right to disregard the property rights of others, it is clearly inconsistent with a free-market economy. On the other hand, if a polluter's production activities do not violate the property rights of others, no problem exists and no policy action

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is necessary.[10] Tradable permits have been advocated increasingly in the latter setting, where no one's rights are being violated but where an activity is deemed harmful to the environment per se or otherwise aesthetically displeasing.

One such instance pertains to setting recycled-content standards for production processes, as advocated by the Progressive Policy Institute's *Mandate for Change*:

> [T]he government would set an industry-wide...recycled content standard which individual firms could meet in one of two ways: They could use the required percentage of secondary materials or they can use fewer secondary materials and buy permits from other firms that exceeded their recycling requirements.... Recycling credit systems could be...used for a variety of products, including newsprint and used lubricating oil. (Stavins and Grumbly 1993, 211)

The sole purpose of this policy is to promote recycling and reductions in landfill usage for their own sake. In the market, producers and consumers are rejecting many recycled materials as less desirable than virgin materials. Recycling advocates complain that "as more states and municipalities have adopted recycling programs, the increased supply of recovered materials has often outpaced demand for recycled or secondary materials. In some instances, this glut has resulted in the subsequent landfilling of separated, recyclable materials" (Stavins and Grumbly 1993, 211). Instead of reaching the obvious conclusion, recycling zealots support tradable permits as a scheme for forcing trash onto a resistant market.

Conclusion

Hayek (1967) argued that in a free society the "rules of just conduct" need to be "ends independent" (160–77). Legal arrangements should not favor the goals or purposes of some individuals or groups over others. Instead, such rules should be structured so that they maximize each individual's chances of accomplishing his own goals. Hayek also argued that once it is decided that a liberal social order is desirable, the propensity of policy makers to predetermine specific market and behavioral outcomes must be stifled, as liberty conflicts inherently with deterministic public policies. The rules

10. Arguably this was the case with the 1990 Clean Air Act Amendments, which instituted tradable permits with respect to emissions associated with the generation of acid rain. Prior to passage of the statute, studies demonstrated that many of the harms allegedly caused by acid rain either did not exist or were much less severe than originally thought (Krug 1990). If acid rain harms northeastern lakes as some allege, a free-market remedy would consist of holding the offending utility companies responsible for damages, possibly by requiring them to pay for liming the damaged lakes. This action also would be much less costly.

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"should consist solely in prohibitions from infringing the protected domain of each which these rules enable us to determine. Liberalism is, therefore, inseparable from the institution of private property" (165).

Hayek's guidelines point toward a true free-market approach to environmental issues. We must establish rules of conduct that clearly define people's rights, their "protected domain." The primary goal of all public policy, including environmental policy, should be the enforcement of rights once they are clearly defined. There is no proper role for the "ends-*de*pendent" policies of the market-based environmentalists. As evidenced by Stavins and Grumbly's view of industries that fail to incorporate the "right amount" of recycled materials in their production process, the purpose of MBE is to thwart free decision making and the results to which it gives rise.

In assessing environmental issues, alternative policy approaches have been incorrectly categorized. The primary choice is not between command-and-control and market-based policies. Instead, it is between free-market policies, based on clearly defining and protecting property rights, and socialist—or, perhaps more precisely, mercantilist—policies, based on furthering the societal and personal goals of politicians and special-interest groups.[11] The latter includes both command-and-control policies *and* those labeled "market-based."

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11. For why mercantilism may be a more precise term, see Ekelund and Tollison (1981).

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Market-Based Environmentalism and the Free Market

Substitutes or Complements?

PETER J. HILL

Roy Cordato has presented an insightful critique of market-based environmentalism. His analysis provides several reasons why one should be suspicious of recent attempts to shape environmental policy through the use of "market-based" rules. Four of Cordato's criticisms are especially telling.

First, environmental problems exemplify not market failure but institutional failure. The lack of well-defined and -enforced private property rights causes the voluntary interaction of individuals to produce undesirable outcomes.

Second, people err by characterizing environmental problems as the overuse of certain resources, independent of whether such use harms people's ability to formulate and execute plans. Thus, many efforts to reform public policy amount to attempts to keep certain resources from being used, whether or not such use represents an infringement of anyone's rights. Humans cannot inhabit this planet without using resources. The relevant question is: What sorts of rules facilitate human cooperation and the satisfaction of human desires? Of course, such desires may include the

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preservation of certain species or resources, but a well-functioning market allows individuals to satisfy these desires only if they make acceptable payments when they use other people's property for such preservation. Unfortunately, when government coercion is involved, people can use the political process to achieve ends for which they are unwilling to pay.

Third, it is difficult to implement appropriate market-based environmentalism because the political process does a poor job of measuring subjective costs and benefits. Instead, people with their own agendas can pervert the process to achieve ends that impose substantial costs on others. Statists, bureaucrats, or radical environmentalists can use many of the market-based environmental proposals to accomplish purely political ends. Economists often act as if choosing the optimal tax level or deciding how many tradable pollution permits should be created is a straightforward matter easily accomplished through the political process. They give little consideration to the influence of the special-interest groups who capture the process to achieve their own purposes (Mitchell and Simmons 1994).

Fourth, Cordato correctly identifies the hubris of much environmental policy. Such policy presumes that the solutions are known and need only be implemented, thus ignoring the importance of the discovery process. Having frozen environmental policy into a particular configuration, people have little capacity for adaptation as they learn of and encounter changes in preferences and resource availabilities. Although market-based environmentalism (MBE) can be more adaptive than command-and-control techniques, it remains less flexible than a true market order.

Cordato's insights are valuable, but he does not go far enough. He identifies the solution to environmental problems as well-defined and -enforced private property rights, but he does not provide a theory or evidence of how such property rights come into being. Without a framework for such analysis, we can only make categorical statements that are not very constructive. But we need to assess whether particular policy innovations are helpful or harmful in moving us toward a more effective structure of property rights. Cordato closes his paper by saying,

> The primary choice is not between command-and-control and market-based policies. Instead, it is between free-market policies, based on clearly defining and protecting property rights, and socialist—or, perhaps more precisely, mercantilist—policies, based on furthering the societal and personal goals of politicians and special-interest groups. The latter includes both command-and-control policies *and* those labeled "market-based."

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But exactly what are these free-market policies based on clearly defining and protecting property rights? Do such policies involve any role for government? If so, what is it? Cordato criticizes economists who use the nirvana model of perfect competition to analyze "market failure" and make policy prescriptions. However, Cordato himself may have slipped into nirvana thinking by urging a regime of pure private property rights but giving no attention to the transaction costs inherent in the definition and enforcement of those rights. While recognizing the importance of Cordato's insights into some of the problems of market-based environmental policy, one who takes a transaction-cost approach may view MBE somewhat more favorably.

Transaction Costs and the Role of Government

Market solutions are superior to coercive ones because voluntary exchange offers the assurance that social interactions are mutually advantageous. However, transaction costs prevent some potentially profitable voluntary exchanges from taking place. Through the use of appropriate rules, government can provide feasible alternatives. In the standard examples of roads and national defense, the transaction costs of individual exchange are high and the free-rider problem substantial. Thus, there is at least some potential for using tax-financed provision of these public goods as a corrective mechanism. Of course, government provision of public goods is fraught with numerous problems, and one ought not be overly optimistic that government will get it right. However, we should not automatically rule out all government intervention.[1]

An even more telling example of not relying completely on voluntary contracts under well-defined and -enforced private property rights pertains to common-law proceedings. Although parts of the common law (contract and property law) are designed to facilitate voluntary transactions, another part (tort law) amounts to using the coercive power of government to enforce solutions that simulate, but do not completely capture, the essence of exchange solutions.

When I drive my car on the road, we could be more assured of "correct" solutions to all interaction problems if I had contracted with everyone I might potentially harm in an accident. Such contracts would specify the different types of accidents, the various degrees of harm, and the appropriate compensation of those harmed. Obviously, were such contracts required

1. Some have suggested that public-good problems are not significant enough to warrant government action (Friedman 1973), but a more mainstream position allows at least some positive potential for government involvement in environmental problems. For instance, Anderson and Leal (1991) offer a program of free-market environmentalism that relies on appropriate, limited government actions.

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before entering the public roadways, the transaction costs of identifying and contracting with all who might be affected by one's driving would be so high as to preclude most people from using automobiles. Therefore, we have adopted an alternative solution: tort law holds me responsible if I dent the fender of your car.[2]

Under common-law rules the problem of subjective cost is ignored and a coerced solution mandated. I will have to compensate you for the damage I cause to your car, but the amount of compensation will be determined by a third party who cannot know your subjective costs. Nevertheless, such a "market-based" solution has many advantages. It lowers the transaction costs of certain types of human interaction, allows us to be involved in useful activities and, despite its shortcomings, forces people who harm others to pay damages, even if the payments do not precisely correspond to the true costs of the harm.

One may offer a similar defense of market-based environmentalism. A more benign reading than Cordato's of the efforts to introduce market-based solutions is that the transaction costs of defining and enforcing rights in some cases are very high and that the coercive power of government can be used productively to give us solutions that are better than not taking any action at all.

Whence Private Property Rights?

It is not very helpful simply to suggest that the answer lies in well-defined and -enforced private property rights without indicating how we get those rights. In the remainder of this paper I shall present and discuss some preliminary observations about how property rights come into being. I shall also suggest how one might assess the involvement of government in that process.

Four hypotheses about the development of private property rights are as follows.

1. Property-rights definition and enforcement are themselves economic activities that respond to perceived benefits and costs (Anderson and Hill 1975). The incidence of benefits and costs is crucial to the process: those who can reap the gains from such activity are more likely to undertake it. In other words, the potential for appropriation of the profits is as important here as elsewhere.

2. The transaction costs of defining and enforcing rights depend on culture, norms, and group size. Small, culturally homogeneous groups

2. Also at issue is the more complicated question of whether the rule of negligence or strict liability should apply. For a discussion, see Epstein (1995, chap. 5).

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have the best chance of success in developing effective rights structures. However, when the resource in question is mobile, the local community may be unable to provide effective governance.

3. Government can facilitate the definition and enforcement of rights. Coercion is a powerful means for reducing free-rider problems; thus, it can improve the institutional framework within which private decision makers act.

4. Government can also interfere with the development of effective property rights. For reasons well stated by Cordato, no one should look upon government action as a panacea for all property-right problems.

Events in the American West illustrate well the influence of benefits and costs on property-rights development. When settlers first came to the West, they devoted few resources to defining and enforcing rights because, given the scarcity of people and the abundance of natural resources, claimants rarely came into conflict. They published announcements in newspapers, directly informed potential neighbors, or used simple devices of demarcation to define their rights to land. However, as more settlers came and property became more valuable, people devoted more resources to the definition and enforcement of rights.

Costs of defining and enforcing rights also changed. The development of barbed wire in the 1870s—an entrepreneurial response to the high costs of wooden or stone fences in the Great Plains—dramatically lowered the cost of defining and enforcing rights to land in that region.

Ability to appropriate profits crucially affected the development of workable rules. In 1862, the first Homestead Act mandated a laborious system of establishing property rights to unclaimed federal land. Under this and later statutes, activities required to establish ownership included living on the land for a specified number of years, plowing acreage unsuited for farming, planting trees, and carrying out irrigation. However, settlers developed alternatives. To govern property rights, land claim clubs established local rules quite different from those mandated by federal legislation (Anderson and Hill 1983). Because those designing the rules for the clubs stood to gain by reducing the dissipation of resources in the process of defining rights, they chose much more sensibly. They did not require inefficient farming practices, and they dramatically reduced residency requirements. As this example shows, local institutions for defining and enforcing rights are more likely to generate productive rules.

Another example pertains to salmon fishing in the Pacific Northwest. Contrary to popular perception, salmon have not always been overexploited. Local Indian tribes evolved excellent rules to govern access to migrating salmon and their spawning grounds (Anderson and Leal 1996). Only with

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the imposition of modern institutions by the white settlers did these property rights break down (Higgs 1982).

In contrast, the tribe was not an effective decision-making unit for governing the overall rate of use of buffalo, and overexploitation occurred. It is often assumed that white hunters caused the near destruction of buffalo on the Great Plains, but there is evidence that American Indians, once they had the horse and the rifle, overexploited the resource because of the difficulty of securing adequate agreement among different tribes as to the appropriate rate of use (Anderson 1995). Numerous other case studies make the same point: local groups can often devise effective rules for governing the use of resources, but sometimes these communities do fall victim to the tragedy of the commons.

The cultural homogeneity of groups, the existence of moral constraints, and the willingness of individuals to identify with the group affect significantly the development of property rights (Anderson and Simmons 1993). High transaction costs impede social interactions among people who do not share a common cultural or religious heritage or who do not develop trust by interacting repeatedly. In traditional societies of small local communities, established multidimensional relationships increase the likelihood that effective private property rights will evolve to govern the use of most resources and also that institutions will develop for controlling the use of the commons (Leal forthcoming). However, when shocks, such as the arrival of a different cultural group, hit the society, its ability to maintain effective rules suffers.

Because of the difficulties of securing voluntary agreement, government can often reduce transaction costs. There are economies of scale in the production of information, and the use of coercion can overcome certain barriers to the definition and enforcement of rights. One of the most effective ways government can intervene is by measuring and monitoring property rights. For example, although settlers in the West relied a great deal on localized institutions for governing the use of resources, statewide brand registration laws were passed quickly. Because cattle could be moved from community to community, requiring centralized registration of brands as legal proof of ownership reduced the transaction costs of monitoring theft. Likewise, requiring the recording of deeds in the county courthouse lowers the cost of contract enforcement and facilitates using real property as collateral for loans.

But government action is a two-edged sword, with both benefits and costs. The use of coercive power can lower transaction costs, but it can also substantially increase them and obstruct the development of private property rights. For instance, instream flows of water have become more valuable in many western states. Because of an increased demand for recreation,

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fishing, and other amenities, leaving water in the streams generates far more benefits than it did previously. However, in most western states, private parties cannot own water left in the stream; they must divert their water or lose their rights to it. Therefore, transferring property rights in recognition of shifting demands has been difficult.

Government action has also raised transaction costs in environmental law. The replacement of common law by statute law after the establishment of the Environmental Protection Agency has slowed the evolution of common law (Meiners 1995). Application of the doctrine of nuisance has substantial potential for solving environmental problems, but statute law has preempted much of the common law of nuisance. Again, government has stood in the way of the development of appropriate private property rights.

What Should Government Do?

The transaction-cost approach to environmental problems points to a somewhat different solution than that suggested by Cordato. He sees the choice as between markets and socialism (or mercantilism). Granted, the lack of well-defined and -enforced private property rights lies at the root of environmental problems. But because transaction costs prevent the complete specification of property rights, it is helpful to have an evaluative framework by which to judge government involvement in environmental matters. Government can do three basic things under the rubric of market-based environmentalism to facilitate the definition and enforcement of rights.

Get Out of the Way

In many instances government simply needs to get out of the way of private efforts to define rights. When it makes sense to define and enforce rights, individuals will search for a way to do so. However, when government insists on maintaining control of the relevant resources, it will thwart such efforts. A prime example is big-game hunting on public lands. As hunting pressure has increased, the common-pool problem of hunters taking less-than-trophy-size animals has also increased. Hunters seeking trophies and those seeking meat increasingly come into conflict. Under state ownership of both the game and the land, no residual claimant (profit appropriator) can prosper by superior game management, preventing hunters from engaging in premature harvest.[3] A few large ranches with resident game herds provide

3. A similar problem exists in fisheries. Where government insists on maintaining the rights of all comers to fish, many useful property-rights solutions to problems with fishery commons are prevented from evolving (Libecap 1989, chap. 5).

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strong evidence that such management is profitable. Numerous creative property-rights solutions have also evolved on other private lands, such as the pooling of lands for hunting purposes and the selling of rights to hunt for trophy game. Likewise, private game management in Africa has prospered where private ownership of land and game prevails.

In other cases, higher levels of government should allow local communities the freedom to create and enforce rights. The likelihood that effective agreement can be reached is much greater in smaller, more homogeneous communities. Ellickson (1991) has found that viable communities of people engaged in numerous repeated interactions produce useful rights structures outside the legal system. Other case studies reveal effective local governance of fisheries where higher levels of government don't interfere (Anderson and Simmons 1993).

Government should not restrict trades of property rights. Grazing permits on federal lands and water rights are among the property rights not freely transferable because of legal impediments.

Legal doctrine or federal statutes can also stand in the way of the evolution of effective property rights. For instance, the public trust doctrine implies that government, acting as the agent of society, should have rights to many natural resources. Unfortunately, this doctrine has often been invoked to prevent the effective development of private rights.

Measure and Monitor Property Rights

Another potentially effective government action is to provide—and in some cases to mandate—basic registration functions. Cattle ranchers in the West turned to the states to register their brands. Similarly, government can use its coercive power to require the registration of potential pollutants. In Canyonlands National Park in Utah, effective monitoring and tracing of the pollutants from a particular source have been carried out by the addition of tracer chemicals to a smokestack (Crawford 1990). It would also be feasible to require all users of an herbicide to "brand" the product by adding a small amount of an inert chemical or radioactive isotope. If the brands were placed in a central registry, then, if the herbicide appeared in groundwater, the responsible party could be identified. It might be unnecessary for government to do anything more, particularly if the common law of nuisance were embraced.

Patience is in order. The definition and enforcement of property rights are evolutionary activities. Government can set the stage by removing artificial barriers and, in some cases, providing registration or monitoring facilities. However, if a solution does not ensue immediately, further government action is not necessarily indicated. Conflicts over the use of resources may not be sufficiently serious, or parties may need to develop new

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technology. Devising workable arrangements takes time. A good general guideline is to permit numerous attempts to solve the problem. Localized solutions hold more promise than a centralized effort aimed at a single national remedy.

Taxes, Subsidies, and Pollution Permits

The most difficult issues of government involvement arise where problems extend across the boundaries of local communities. In such cases, removing government obstacles to the development of property rights, requiring the registration of potential pollutants, or relying on local, community-based solutions may be insufficient. Major problems of global climatic change and of pollution that crosses political boundaries are much more difficult to solve.[4] Taxes, subsidies, tradable pollution permits, and treaties among political units may be appropriate to approximate markets and property rights. However, at this level, Cordato's criticisms of market-based environmentalism are the most telling. Attempts to use government to simulate the solutions of the marketplace will be plagued by both information and incentive problems. Thus, government ought to move with extreme caution in implementing solutions of this type.

In Sum

In assessing environmental problems and policies, I do not draw the line between government and the marketplace as sharply as Cordato does. Effective environmental policy making must center on an understanding of the process by which private property rights develop. Government can play both positive and negative roles in that process. We need an adequate theory of the creation and change of property rights to assess the government's involvement. Market-based environmentalism can be a smoke screen for statists and radical environmentalists who simply want to force their preferences on an unsuspecting public. However, it can also represent an intelligent effort by people who understand and believe in markets to facilitate the development of private property rights so that markets can operate.

4. Of course, one must be reasonably certain that such problems exist at a level worth attempting to ameliorate before plunging headlong into massive state solutions. Many of the supposedly substantial transboundary problems that have received a great deal of media attention have been found not to be serious at present (Bast, Hill, and Rue 1994).

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The Almighty, Impotent State

Or, the Crisis of Authority

SIGMUND KNAG

That government authority is in crisis is not a new idea. A book recently reviewed by me in this journal, Nicholas Kittrie's *The War against Authority* (1995), demonstrates that political authority must constantly deal with dissidents and rebels. But warnings of crisis have grown frequent and now come from many quarters. The high ambitions of modern government contrast curiously with the actual sentiments voiced by common people, which are frequently cynical and contemptuous.

Although agreement is growing that a crisis of authority exists, there is less agreement regarding its nature and causes. In the following discussion of the crisis of authority, I shall uphold the following contentions.

— Authority, properly understood and exercised, has a valuable social function that no credible political theory can neglect or deny. Its demise would spell the disintegration of society and the triumph of the rule of force.

— The very notion of authority has been gravely misunderstood in this century. Authority has been idolized, as in the interwar years, and thoughtlessly rejected, as in the student rebellion of the 1960s.

— Western governments now have more power than ever, particularly over economic relationships, in part because of the prevailing faith in the Positive State.

— Despite the preceding contention, present government does not

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have much authority. The conspicuous contempt for politics and politicians in all Western countries is at odds with the idealistic official conception of government.

— The government of the "bad old days" was paternalistic, whereas the present kind of Western government may be called maternalistic. The old power was harsh and visible, modern power soft and all-pervasive. The emphasis is now less on justice and punishment and more on propaganda and intervention.

— Although present government has extensive powers, the exercise of that power requires negotiation with the corporate organizations of business, labor, agriculture, and other groups. In the political culture of the corporate-pluralist state, deal making has supplanted deliberation. Although government has wide powers, any decision it makes is open to challenge and negotiation, and every group must be heard. The authority of government is weak because its powers are great.

— The weak authority of modern government is particularly obvious and damaging in the governance of its own large institutions (hospitals, schools, and universities and, in many countries, broadcasting and arts institutions).

— The present kind of government fails in the crucial function of leadership; that is, it does not have the conviction to seize the initiative and give bold direction to the course of events. Maternalism or political correctness leads government to doubt itself. The consensus-seeking and deal-making components of corporate pluralism bind its hands and feet with a thousand vague promises to a thousand interest groups. Its activist philosophy makes it dizzy with the burden of conflicting duties. Incapable of acting vigorously in the public interest, it has power but lacks authority.

— We need to restore the authority of government. But doing so means rejecting the idea of the Positive State. More authority requires less government. It also means a more local government, whose citizens can better understand and influence it, even identify with it. And it means a more democratic government, where citizens can effectively protest, undo decisions they disapprove, and place limits on government's powers.

The Nature and Function of Political Authority

As an element of political theory, authority is one of the few fundamental concepts. As an element of the social order, it performs a crucial function. Yet it is shrouded in mystery and surrounded by controversy. To discuss authority fruitfully, we must know what we are talking about.[1] Given the

1. For a particularly valuable discussion of authority from many points of view—legal, anthropological, political, and historical—see Friedrich (1958).

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complexity and fundamentality of the concept of authority, no brief definition will do. We must arrive at understanding by gradually recognizing its characteristics.

Authority is a special social status enjoyed by an institution or person. Someone in authority speaks with a particular weight that can move people to concerted action. Authority thus enables leadership and social order. It is not the mere possession of superior strength, or power: essentially a social and spiritual fact, it depends on attitudes and perceptions and rests on legitimacy, that is, on the consent or respect or awe of the people.

Authority can be tied to a person, position, office, institution, or doctrine. It can also reside in particular persons because of their character or background, perhaps their determination, farsightedness, justice, charity, charm, family, fame, or fitness for the times.

Authority is needed, and found, in many fields. Pastors have religious authority, based on their insight into religious issues, personal fitness for such office, place in an ecclesiastical organization (the ordainment lends authority), and commitment to their flock. Judges have legal authority based on training, impartiality, and place in a court system. Similarly, authority can be possessed by businessmen, teachers, landowners, and other professionals.

Authority, as discussed here so far, is a broad social phenomenon. Political authority, which involves the right to use force, is a special variety of the broader thing. Needed for political work, it flows from persons and from their offices or positions. Its core is weight and tradition—we are more likely to defer to an institution of long standing. Other kinds of authority, such as spiritual or moral authority, rest more or less on the power of example, and do not presume the right to use force.

As a style of communication, authority lies between coercion and persuasion. In coercing, one says, "Do as I say, or else...!" In persuading, one says, "Look here, you really should...." One with authority essentially says, "Do it because I say so." Authority does not give reasons, nor does it threaten; it speaks weightily and expects obedience. For example, a teacher who tells a pupil to be quiet and pay attention is exercising authority; she neither threatens nor pleads nor gives reasons; she speaks firmly and with a sense of conviction of her right to act as she does, and the pupil tends to do as he is told. Similar expressions of authority occur when an employer gives an instruction to an employee, a parent lays down the law to a child, or a jury renders a verdict.

The word *authority* is of Latin origin. The Roman Republic distinguished among three related political qualities: *potestas* was the ensemble of an official's rights and powers; *imperium* was the power to issue commands in legal form backed by coercive sanction; and *auctoritas* was the right of the

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Senate to issue weighty counsel to the executive. In his *Römisches Staatsrecht*, Theodor Mommsen described the *auctoritas* of the Roman Senate as "less than command [*Befehl*] and more than consultation [*Rathschlag*]" (1888, 3:1033ff.). It carried significant weight but no absolute binding power.

Legitimacy and authority reflect each other: the legitimacy of one's rule confers authority on it. Authority is exercised by the ruler; legitimacy is granted by the subjects. A crisis of authority, then, is equally a crisis of legitimacy. In both cases the issue is the relation between rulers and ruled.

Both profound and highly readable, Guglielmo Ferrero's *The Principles of Power* (1942) is a commendable analysis of the social function of legitimacy. According to Ferrero, "Principles of legitimacy are justifications of power, that is, of the right to rule" (22). He defines government as "legitimate if power is conferred and exercised according to principles and rules accepted without question by those who must obey" (135). The two essential principles of legitimacy are the monarchic or aristocratic, in which power is transferred according to rules of succession, and the democratic, in which it is transferred according to election. Each can function well if adhered to correctly. Legitimacy's valuable social function is to civilize and humanize government by removing the reciprocal fear between the governors and the governed, thereby reducing their destructive mutual use of naked force to oppress or to rebel (chap. 4). Legitimacy implies a measure of mutual trust between the rulers and the ruled and largely replaces force with authority. Ferrero therefore calls the principles of legitimacy "the invisible genii of the city" (that is, of the political community). But neither principle of legitimacy is entirely rational and neither can remove fear and reduce force at a stroke. Each needs time to establish itself, being essentially psychological and subjective in its effect.

Political leadership is the exercise of political authority to seize the initiative and move policy in a certain direction. Political leaders seek to give direction to the masses, who cannot be commanded, only swayed. The leaders use the legitimacy of their positions to exercise influence on the course of political and perhaps social and economic affairs.

Pure force does not constitute authority; force and authority are different and complementary. We yield to threat because we wish to avoid extinction or grief. We defer to authority because we feel, however vaguely, that the person in authority has a right to sway us and that, at least in the long run, we are better off following his lead. Authority may be seen as the alternative to force, as the characteristic of a government that rules by legitimacy rather than by force. If authority—hence legitimacy—erodes, it will be replaced by force; either ordered force, meaning iron rule, or disordered force, meaning violent chaos. The key to a social order that is more than

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cold and merciless command met by sullen resignation and obedience, authority is the precondition of humaneness and civilization.

Used with scruple, authority fosters social cohesion and strength. In the best of cases, the bold and responsible use of authority lends strength to the weak, preserves order where chaos threatens, and provides unity and purpose where confusion reigns. Used rightly, authority benefits those led rather than those leading. Initiative by those in authority enables swift, decisive action when the seeking of consensus through deliberation is not feasible. Legitimate authority constitutes a bulwark against social predators or revolutionary despotism.[2]

Weakness or absence of natural authority leads to the unraveling of political leadership. Loss of leadership brings loss of direction and the threat of social chaos. And chaos may—indeed, most likely will—call forth strong and ruthless men who believe they can restore order. (In ancient Greek, *tyrant* meant essentially a strong leader who had risen with the support of the masses but who, because of the irregularity of his rise, lacked legitimacy. His modern counterpart is the populist dictator.) The larger and more complex the society, the more it depends on institutions of authority for its continued order, and the greater the chaos will be if that order breaks down.

The most fundamental causes of a weakening of authority are the loss of conviction by those in positions of authority and the appearance of doubt in the public mind as to whether leading persons or institutions have the right to their social positions, in other words, the loss of legitimacy. We know that authority has broken down when, after an authority has issued an injunction, citizens laugh in its face or reply, "Sez *you*!" or "That's what *you* think!"—in other words, when deference disappears and is replaced by hostility, contempt, or derision. Authority must then assert itself, by becoming suitably nasty, or be lost.

Authority Crisis?

Is there an authority crisis? Well, everybody seems to think so: politicians and voters, pundits and journalists. In the Western world, politicians are held in general contempt more than ever. The position of politician, once considered a pretty important and admirable one, now ranks rather low in the credibility ratings, down there with journalists and lawyers. Voters feel free to make cynical statements about the political class in general, observing that government officials break campaign promises, waffle, double-talk, procrastinate, and feather their own nests. The politicians themselves complain that it is much more difficult to achieve voter consensus about policy

2. Of course, authority can be, and has been, abused or made into a false god.

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than it was, say, twenty years ago. Voters seem to demand ever more of government, yet show less willingness to contribute, whether in taxes or in political support. Participation in elections is falling in all Western countries, although to an extent peculiar to each. In some countries, armed movements, thinking *they* ought to run things, pose obvious and literal challenges to authority. Youths idolize rebellion and insolence, and their tastes are eagerly reflected and reinforced by popular arts and fashionable journalism. Teachers have trouble keeping order in the classroom.

Yes, observers are right to agree that there is a crisis of authority. But agreement is lacking with respect to the nature and causes of the crisis.

Two Kinds of Modern Confusion about Authority

The twentieth century has witnessed two periods of confusion about authority. The first was the idolization of authority in the interwar years, when authority was defined inadequately and worshipped fanatically, resulting in the rejection of democracy and legality and in the condonation of dictatorship. The second was the postwar era with its New Left movement, which in various ways influenced the whole political spectrum. In the 1960s a remarkable awakening took place in academic and artistic circles, in which all authority was decried as tyranny, even the authority of the experienced over the novice, of parent over child, of teacher over student, of law over whim, of democratic decisions over sectarian goals. In conjunction with other developments, this trend created an aversion to the proper assertion of authority in Western countries and resulted in a tendency toward paralysis of society and government in the face of legal, economic, and moral disorder. Those in authority knew they should act but could not bring themselves to do so.

Both kinds of error are still with us, although the worship of political power has taken new forms. The fashion of regarding all authority as sinister or wrongfully inhibiting, whose history goes back at least to the French Revolution, has become a fixture in the modern worldview of certain leftists and certain libertarians.

If the first error consists of equating social order with coercively imposed order, the second error consists of neglecting the need for a social order or blithely assuming that order will come about solely from individual action. Some Rothbardian libertarians seem to embrace the idea of "spontaneous order" in that sense. And some Kropotkinian anarchists seem to think that in the absence of centralist government, some spirit will move individuals to coordinate their actions without the need for a hierarchy of leadership. Both are mistaken. Order may come about without central direction in more cases than commonly thought, but no order is spontaneous in the sense that it has no human agent or organizational form. Any extensive

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social order requires individual initiative—that is, leadership—and hierarchy, which implies authority (although not necessarily *political* authority) and deference by individuals. All cooperative social order requires individuals to restrain some of their own immediate desires in deference to the injunctions of authority. A concept of freedom that does not acknowledge this necessity must remain a pipe dream. No free society can come into being except by establishing authority and placing restraints on individual action. Political authority is only the most palpable manifestation of this general truth.

Although authority is an inescapable necessity, we have choices about the way it is practiced. One choice is between democracy and autocracy. In a democracy, political authority is established in cooperative fashion; in an autocracy, it is imposed by a dynasty. Another choice in authority is between a monolithic and a pluralistic (a free) society. In a perfectly monolithic society, political authority is the only source of order; in a free society, it is one among many sources, the others residing in the spheres of community, association, and family. There is also, within a pluralistic society, a choice of centralized or decentralized government. Under decentralism, the units at local and intermediate levels govern their own affairs; under centralism, they are instruments of central government.

Curiously, in today's political ethos the two errors often appear together, as a naïve belief in government power coupled with a lack of deference to just authority. Indeed, it often happens that in a person holding both views, the stronger one is, the stronger the other is. That condition is the core of today's crisis of authority. A balanced view would be both more resistant to power in general and more prepared to bow to just authority. In matters of government, it would suspect quantity and approve quality.

I certainly do not mean to suggest that the only proper attitude of citizens toward their government is to shut up and obey. But some kind of authority is proper and necessary if human society is to endure. Either today's government represents such authority, in which case we should defer to it and the present rejection of authority is a foolish fashion, or today's government has gone astray and given just offense, in which case we are right to challenge its legitimacy. I dare say both views contain some truth. Nevertheless, just authority is needed. If we do not approve the authority we have, we must attempt to establish another. Doing without authority is not an option. The constructive, long-term approach requires that we identify the conditions of legitimate authority and seek to bring them about where they are missing or to strengthen them where they are impaired. We should entertain both a skepticism toward power and a reasonable willingness to defer to authority. The present idolization of hostility, contempt, and derision does not point toward freedom or order. Neither do the prevailing daydreams of all the good the government can do.

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The New Maternalism

In the twentieth century the citizens of Western countries have embraced an abiding faith in the Positive State: the active, expansive, benevolent state that aims to promote general happiness through copious taxation, regulation, and institution building. An earlier form of the Positive State, absolute monarchy, was paternalistic and authoritarian, acting to keep all classes, not least the lower ones, in their places. The modern form, the socialist or welfare state, may well be called maternalistic, as it claims to act for the elevation and empowerment of the lower classes: feeding, instructing, and protecting the weak. To achieve this vast goal, the new Positive State, like the old, wields power. Indeed the new Positive State is more powerful than the old one because, in its new maternal role, it has more responsibilities. Where the old paternalism chastised pointedly, the new maternalism smothers massively. Before, the tools were justice and punishment; now they are education and therapy (or rather, propaganda and regulation).[3] But positivism and power remain as before. Hence Robert Nisbet (1975) speaks of "the new despotism." So-called political correctness has its roots here.

Today, as before, when all look to the state to handle the big issues, the ability of ordinary people to deal with life grows feeble. They retain their appetites but lose their responsibility. Embraced by government, they become like children.

In the old days, powers independent of government—autonomous powers between individuals and the state—existed in local magnates and councils, clerical and professional bodies, spiritual and moral authorities. Important spheres of endeavor lay outside the sway of political provision. There, individuals and communities faced plentiful challenges on which to whet their moral and practical resourcefulness, and so become adult and responsible. Long the province of the church, the "mother-like" functions of education, sick care, and poor relief tapped into its capabilities and imparted vitality to it. The state's capacity to control and provide was limited by its primitive administrative technique and a narrow tax base.

The modern nation-state has suppressed or weakened the intermediate powers, claiming all for itself. Its administrative capacity is vastly increased, individuals now have fewer areas for which they alone are responsible. Individuals, families, communities, lay and holy corporations are largely emptied

3. The femininity of left-socialism as against the rapacious masculinity of German Nazism was brought to my attention by the psychologist and philosopher Ingjald Nissen's study of Nazism, *Psykopatenes diktatur* (1974). Russian socialism, says Nissen, came about as a maternalistic reaction to economic chaos and need. (One might add that power politics soon changed the Russian variety into paternalism.) But Western democratic socialism, of similar inspiration as the Russian, remained maternal. The slang expression "nanny state" recognizes this maternalism.

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of functions, challenges, and vitality. Thus, individuals stand more naked before power than ever. Yet they fear it less.

The modern state confronts an irreverent and reckless, yet dependent and demanding, citizenry. Anomie threatens all. The exercise of authority is needed, but the sources of authority have shrunk to one. And the maternal character of the modern state saps its capacity to act with authority. To use restraining power is considered both too unpopular and too harsh: incompatible with the uplifting talk of solidarity and likely to offend this or that vanity. The essence of political authority—to tell people that they are not allowed to do certain things and that if they persist in doing them they will be restrained and probably punished—cannot be fitted into modern maternalism. The state's role may be likened to that of a single mother trying to discipline a spoiled, assertive teenage son. Both she and he secretly miss the father. She means well, but she can't handle the job.

The old state forbade and punished. Strong action came naturally to it. The modern state feeds and scolds. It cannot find it in its heart to forbid or punish. It does not curb the confused and contradictory appetites of its infantilized citizens. Having assumed all-encompassing power, it finds itself unable to exercise authority.

The political concerns of the old state were few and simple. A firm, even harsh or cruel, hand could maintain the order required. The governmental duties of the new state are many and complex. Its centralism chokes it. Disorder grows unchecked, as the inadequacies of the present state for tackling the complexities of actual, dynamic society become ever more obvious.

The Pursuit of Consensus

In a democracy you are both a citizen and a subject. That dual role puts you in a cleft stick. As a citizen, you participate in electing a government; as a subject, you must obey the government. As a citizen, you want a government strong enough to carry out your wishes; as a subject, you want to preclude oppression. You must come to terms with the tension between liberty and authority.

Under monarchy, the emphasis lay on authority. Under nascent nineteenth-century democracy, it lay on liberty, on the limitation of government power. Today, the emphasis goes to consensus. If the ideal of authority under monarchy led to unbalanced government because of popular recalcitrance, the emphasis on consensus under modern democracy has also led us onto a wrong track. Authority and liberty must be balanced, but seeking consensus is not the way to achieve that balance. To satisfy democracy, government must be free to act efficaciously, yet accountable to its principals, the citizens. This balancing act is tricky.

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In the times of monarchy, the difficulty was that the king's insistence on tight control made him powerful within his established sphere of powers, but made the people resist his rule and led them to limit its domain. The king ordained, but the people resisted as and when they could. This tension set a practical limit on how much power he could wield. In theory, he was all-powerful; in practice, he had to settle for a limited agenda.

During the ascendancy of representative democracy, a strange ambiguity arose. The logic of democracy led in two opposite directions. On the one hand, the emphasis was on limitation of executive power; on the other, in contradiction to the first tendency, it was desired that the power of the people to order society be strong. Giovanni Sartori has referred to these two aspects as demo-protection and demo-power. Moderate and conservative liberals tended to set the former goal (demo-protection) highest, whereas radical democrats and later the socialists held more to the latter (demo-power). Both could be rather single-minded. Although the socialist view definitely gained the upper hand, the puzzle was never really solved. The different and opposite goals of exerting power and limiting power fused, producing a new guiding principle: consensus. The functions of ruling and resisting passed as one into the same hands, those of elected representatives. The old power balance being impaired, the government agenda grew. The democratic government now aimed primarily neither to reduce oppression nor expand liberty but to redistribute wealth.

In the era of mature representative democracy, the confusion persists. The modern political mind has difficulty assigning a clear place to the functions of ruling and resisting. The results are paradoxical. On the one hand, government is charged with enormous tasks and wields correspondingly large powers in the interest of popular welfare. On the other, its operation is constantly and significantly hampered by the need to seek consensus, which in today's society means consulting interest groups, or rather trying not to offend any influential group too much. Government is strong, and it is weak.

This problem cannot be solved by reference to democracy in the narrow sense of deciding *who* wields power. To solve it, we must attend to the issue of limitation, to the question of *how much* power should be wielded by whoever wields it.

An efficacious government is not one that can easily carry out any scheme it wishes, but one capable of acting decisively to promote what is in the common interest, and incapable of acting against that interest. (By common interest, one should here understand that which is in the long-term interest of all, as opposed to temporary or particular interests.) In short, a good government should have adequate power to do good

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and little power to do bad. The challenge lies in adjusting the powers of government accordingly.

The Political Culture of Corporate Pluralism

Today's representative government has great trouble discharging its essential duties satisfactorily because it tries to do too many things and does not sufficiently distinguish between what is vital to social survival and what is merely desirable from some particular or temporary point of view. Under present arrangements, both the government and its constituents demand that the government be all things to all people. Two consequences ensue. First, the more it tries to do, the worse its overall performance, because less time and attention are available for each and no amount of organization can alter this reality. Second, when many goals are embraced with little discrimination, some must be inconsistent with each other; merely by setting out to do one task, one ensures failure in the accomplishment of another.

In the nature of things, a hierarchy of government aims must be respected if government work is to promote the common interest. This fact is being ignored today, and the mechanical cause of the neglect lies in certain tendencies of modern representative government itself, particularly those associated with the term *corporate pluralism.*

Representative government takes the form of corporate pluralism when it sees itself, and is seen as, an ambitious general provider of collectively financed services and transfers to the people. Each transfer will be of intense interest to a particular group, which will therefore tend to organize a lobby to secure an effective influence on policy in that area (e.g., income support for farmers). Other groups do the same thing. Thus arises a new informal channel of influence in addition to elected representation: the lobby system, or the corporate channel.

Under corporate pluralism, the art of government largely becomes a matter of deal making rather than deliberation. By deal making, I mean the concern with practical—sometimes cynical—compromises arrived at through robust give-and-take negotiation between groups with conflicting interests and principles. By deliberation, I mean the careful collective weighing of different courses of common action by representatives committed to a common interest, people divided in opinion but united by principle.

The danger to democracy is that the spirit of deal making dominates the entire sphere of government—even the areas outside the "safety net" system—to the extent that all groups receive consideration, even groups who care little about the rules needed to sustain society, even groups of spongers, wreckers, and whiners. Every corporate-channel objection is welcomed with a diplomatic smile and a show of goodwill; every angry protester

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is someone who must be appeased in the name of consensus by being tossed at least a tidbit. In the world of corporate pluralism, no rascal is ever thrown out on his ear. To achieve status as a recognized minority is to acquire the right to importune, inconvenience, and intimidate everybody else. A government meaning to serve all groups in all respects is nervously afraid of offending, and instinctively shies away from saying "no," preferring "perhaps later." It soothes, promises, stalls, coddles, wheels and deals. In all its affairs it looks over its shoulder and calculates which interests can be sacrificed to which others and in what way, and how to get away with it. The policy of such a government can never be decisive or coherent; it will necessarily be a melange of compromises, a shambles that must be covered up with talk, pretense, or deceit. Masterful government becomes servile.

Deal making, with its weighing of the interests of classes and regions, is inescapable in matters related to the practical distribution of burdens and benefits but is utterly inappropriate in central questions of defense and civil order. These touch on government's core function, that of upholding law and order, or, put more grandly, guarding the social order—the order of rules for social intercourse that make beneficial human cooperation possible. That responsibility must not be set aside in any smoke-filled back room in order to strike a deal.

But where the spirit of deal making prevails, this prime government function indeed risks being compromised. Where the question of providing more police officers on the beat (to choose a conventional symbol of law and order) must compete on equal terms with the establishment of a government program to support amateur rock musicians, to promote the greater consumption of whole-meal bread, or to provide instruction in clowning for unemployed youths, the central function (here represented by the police officer) must receive insufficient attention and emphasis. Politics becomes a grab bag, and government takes on the aspect of an overworked, peevish Santa Claus besieged by a horde of insatiable, rampaging kids. By giving groups what they want, government defrauds citizens of what they need. In the extreme, this development threatens the entire social order. In the absence of authority, the ship of state will be a ship of fools, slowly sinking while its crew and passengers haggle over who will sit at the captain's table.

Government's Weak Authority over Its Own Institutions

Consider major government institutions such as universities, schools, hospitals, and (in many countries) arts institutions and broadcasting companies. As the people's instruments of felicity, these institutions ought to be governed by the people through their elected government. If not, the institu-

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tions will be run by their own staffs, whose goals may or may not be those of a majority of citizens.

Unfortunately, democracy is not suited for such governance. Management of a complex institution requires a firm grip, clear definition of responsibilities, and speedy decisions—in other words, the rather autocratic style of management typical of business, the very opposite of democratic decision making. Democracy can carry out only a few complex operations, such as a war, and even then it must set most other things aside for the duration.

Besides, institutions such as universities and hospitals, by the nature of their activity, need self-governance—freedom from detailed goals and daily intervention from outside—to operate efficiently. Other relevant matters include the freedom of inquiry and of education, the integrity of the medical profession, and the freedom of the media.

The practical outcome of all the considerations (for elected government can be practical) is that these major government institutions are left largely without democratic control in the blithe hope that somehow all will turn out well in the end. They are left to run themselves, that is, to be run by their staffs and managements. The only control comes through budgets, which must be passed by the elected government. But the government doesn't know any more about the appropriateness of each institution's budget submissions than it is told by the administrators submitting them. Each manager has a practical monopoly of essential information about his institution and its activities, and a pronounced vested interest in slanting that information.

Hence the almighty ambitious modern state, like the Roman Empire of yore, falls apart into little fiefs, run by local cliques who use the institutions so gratuitously provided them by government for their own aims, material or ideological. Well-organized bodies of journalists, academics, teachers, nurses, and doctors (all highly articulate) are led by the most politicized, domineering, and demanding individuals among them. The phony ideology of "workplace democracy" promulgated in the 1960s and 1970s assists and legitimizes this outcome.

The result is a pulverizing of responsibility, a feeble cost control, and—most damaging of all—a drift of purpose and the substitution of size and bureaucratic methods for quality and vitality. Huge institutions, built for heavy duty, chock-full of expensive equipment, and staffed by highly paid specialists are rudderless, rolling with the swell and going nowhere. A simple principle of administration, that whoever pays should decide, is breached. The people pay, the government owns, and the inmates decide. The shattering of responsibility is complete.

The present situation in a Western welfare state bears an uncanny likeness to that in the Soviet Union during the Brezhnev Era and afterward, and

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not by accident, for centralized common ownership is a principle Western and communist states have in common qua welfare states, though they differ in the extent of its application. Great pieces of the state are up for grabs by those closest to them by dint of employment or political connection. Citizens enjoy neither the supposed benefits of democratic governance nor the blessings of institutional self-management. Instead they get a perverted version of both.

Real self-governance would be a splendid thing. But that would require an employee buyout with subsequent institutional self-ownership and self-finance, with no bountiful treasury to supply capital and shore up deficits. It would mean risk and competition and harsh contact with reality—a world very different from today's cozy little fiefs, where the foot-dragging, brain-storming, coffee-sipping inmates reap all the benefits of ownership with none of the effort or risk, playing shop with the nation's resources.

These conditions manifest the crisis of authority. Here again, the powerful centralized state would wield its power to do great works but ends up as the pawn of its own servants. The positivist mountain quivers, and gives birth to a mouse. This state of affairs mocks democratic ideals. It is a shameful and costly farce.

The Brave and Modest Republic

If we desire authoritative democratic government, capable of acting efficiently in the common interest of the citizens who elected it, we must seek a government with fewer and better-defined tasks.

Some libertarians place all the emphasis on removing power from government. They dislike talk of establishing good government or restoring authority. They wish government would just go away. But libertarian sentiments should not lead us to fear authoritative government in the sense employed here. Authority is the cement of that political society on which our liberty depends. What we should fear is overbearing, oversized, meddling government. Such government has much power to harm but little ability to serve us all in the long run. Its power is a quantitative phenomenon. Such government is wasteful, exerting vast power but to little constructive effect.

There can be little doubt that the happy and constructive periods in mankind's annals—few and brief as they may have been—occurred where people felt a justified pride and confidence in their social institutions, including government, a moderate and quiet pride that did not tempt them into haughtiness or cruelty; and that those periods ended when power had accumulated enough to inspire sentiments of grandeur. Neither should we doubt that thinking individuals in today's Western societies no longer see themselves as dwelling in such a blessed state. The happy governments were

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typically the product of a tradition of civic self-government, slowly grown and cultivated under relative peace interrupted by limited wars, kindled by free inquiry and debate, nourished by patient industry, and stimulated by trade. The Athenian democracy witnessed such a moment of glory, until it ended in imperial pretensions and vainglorious rivalry. Similar glory was achieved in medieval European city republics, before they were engulfed by power. Yet another tradition of local self-government took root in North America and lasted longer. For a time, it seemed that the nineteenth-century triumph of representative democracy in European nation-states would bring an era of sustained progress; but the foot slipped, and the momentum was lost. The federal democracy of Switzerland, although now "streamlined" by modern political thought and practice, perhaps most closely approximates a realization of the ideal of civic self-government, proof that it need not be doomed to brief, hectic life but can prevail and endure.

The solution to the dearth of authority is not more authoritarian policies in the nation-state, not more right-wing paternalism or left-wing maternalism. It requires, instead, the transfer of powers and functions from the central state to other agencies: back to the local governments, back to the smaller communities, back to the corporations of civil society, back to individuals and families. If we are lucky, the state of tomorrow will retain but a fragment of its present powers, and act with all the greater authority within its diminished sphere. There is no contradiction here. The contradiction is to believe that government can spread its ambition and power widely and still command authority.

The art of good government lies in balancing accountability and initiative. It preserves liberty by not attempting to do for citizens what they can and ought to do for themselves. It is capable of authority for not having to please, not being beholden to special interests. It is not denied the ability to rule, which is what it is there for. Powerful when it acts within its modest assigned scope, it is powerless elsewhere. The salient point is to keep government within its powers, and to keep those powers in line with a well-informed public opinion. In a full-fledged democracy, this containment is ensured by the rights of the people to elect the government and to protest its acts or even unseat it, through the open, organized collective procedures of initiative, referendum, and recall. Another component of good government is the realization that only a reasonably sized polity can be effectively controlled by the people, and therefore that any great state must be articulated into autonomous units.[4] By these means, citizens endow their gov-

4. Kohr (1986), a charming classic of size theory, makes a persuasive case that subdivision is the key to good government; see especially chapter 9. For a political science study of democracy and size, see Dahl and Tufte (1973), wherein the authors note that small states have low defense costs and successfully find ways to compensate for smallness.

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ernment with power where and when they think it needs it, and remove power when they find it has too much. As for the proper measure of identification of citizens with their government, that is achieved by letting the system of government spring from the local community. Thus are laid the foundations of trust and loyalty, perhaps even pride.[5]

If such a government disappoints, as it may, at least we citizens will know that the fault is ours alone, and that we must look to ourselves for the mending of our ways. Such government will be something we lack today: for better or worse, it will be *our* government.

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5. Two recent works with related views of citizenship, focused differently from this article, are Bryan and MacClaughry (1989), which supports localist democratic government in connection with a federal constitutional proposal for the state of Vermont, and Bookchin (1995), which reviews the fortunes of citizenship and advocates direct democracy, municipal autonomy, and a confederate commonwealth. Though vague, opinionated, and harboring some inadvisable communistic notions, Bookchin's work has glimmers of a rare understanding of the deeper meaning of human-scale democracy and traces historical patterns others might pursue further.

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REVIEW ESSAY

What Do People *Really* Want?

Timur Kuran's *Private Truths, Public Lies*

LOREN E. LOMASKY

It is astounding how many of the most elegant and penetrating theories of political economy grow out of ideas so simple as on first blush to seem prosaic. Adam Smith's Invisible Hand is a metaphorical illustration of the idea that the uncoordinated self-interested activities of a diverse multitude can regularly generate an order that serves the common good. The model of the Prisoner's Dilemma is a sort of obverse, revealing that individuals who act with impeccable rationality can generate outcomes inferior to what would have come about had they all been less rational. Malthus created a stir that has not yet subsided by observing that arithmetic growth in food production does not go at all well with exponential increase in population, and Marx narrates the epic rise and fall of Capital as the inexorable playing out of the destiny of an economic system that dies unless it can continuously feed on surplus value expropriated from labor. Each of these ideas has been the fount of a voluminous literature that has invigorated economic science. It does not, of course, follow that an intellectually beautiful and stimulating idea is also true.

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Timur Kuran's central insight in *Private Truths, Public Lies: The Social Consequences of Preference Falsification* (Cambridge: Harvard University Press, 1995) is also delightfully simple. People, he reminds us, often have reasons to express preferences they do not genuinely hold. If midway through his dinner party my boss asks me if I'm having a good time, I am apt not to reveal my conviction that the tastelessness of the food is matched only by that of the guests. Rather, I remark with all the sincerity and enthusiasm I am able to muster how delighted I am to be in attendance. If at that party a group of the guests is ruing the low quality of television fare and remarking that they tune in only to Public Broadcasting Service programs, I may choose simply to nod and go along rather than reveal my preference for a broadcast episode of *The Simpsons* or *X-Files* to any number of *Masterpiece Theatre* episodes. Whether for fear of some setback to one's material prospects or from apprehension about what people might think of one, the gate to the recesses of one's beliefs and attitudes may be kept securely locked.

What one chooses to reveal to others is what Kuran calls a *public preference*. Public preferences may vary systematically according to the particular public with whom one communicates and how much frankness toward that party is deemed desirable. If a *private preference* is to be strictly parallel, then it will be what one reveals to oneself. Perhaps because he finds such a notion of self-revelation opaque, Kuran instead defines a person's private preference as "what he would express in the absence of social pressures" (17). Although the force of the contrast will usually be clear enough, this way of expressing it is somewhat defective. First, people sometimes disguise their private preferences for reasons other than social pressure; one may wish to amuse others or to be thought a bold and unconventional fellow or to conceal something for the interlocutor's own good despite not being pressured in any way (except internally) to do so. Second, and more important, one's own private preference structure can incorporate significant ambiguities. I shall say something about the latter point in the concluding paragraphs of this essay.

A divergence between public and private preferences, according to Kuran, constitutes *preference falsification*. For two main reasons, it tends to be costly. First, normally by expressing a preference one is causally efficacious to a greater or lesser degree in bringing about the object of that preference. If you prefer pancakes to eggs and accurately reveal that preference to the waitress, then it is pancakes you will get. If you vote for holding the company picnic in August rather than June, you increase the probability of an August picnic. Preference falsification thus sacrifices causal efficacy. Second, we often find dissembling distasteful, especially when the need to do so seems imposed by external circumstance. As anyone who has written a letter to the editor, cheered at a sporting event, or carried on a vociferous

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bar-stool debate knows, truthful self-expression is itself a consumption good. That too is sacrificed by preference falsification.

Countering these costs is the sobering fact that just as you can affect the world, the world can affect you: Recall the part of the world represented by one's boss and the other guests. Dinner parties are small stuff, but affairs of state exemplify a similar cost structure. In tyrannous regimes one unfortunate instance of allowing a private preference to slip out can result in a trip to the Gulag. In liberal democratic societies consequences are rarely so dire. Nonetheless, there too preference revelation is constrained. Being regarded as someone who holds deviant views typically is costly even when state functionaries do not exact those costs. Moreover, the efficacy benefit of revealing your true preferences over social outcomes will often be close to zero when yours is just one small voice in a chorus of millions of people. (Compare the likelihood that one vote will tip the balance in an American presidential election.)

Some people place great value on expressing their true preferences. They may stand in parks on soapboxes from which they harangue the crowd or spend hours dialing and waiting on hold for a few minutes of exposure on a talk-radio show. More elevated examples are the Christian martyrs who suffered torture and death rather than falsify their preferences concerning the relative merits of Christ and Caesar, or Eastern European dissidents who, prior to 1989, bore extreme hardships for the sake of bearing witness to regime evils. These individuals are exceptions. Most people are neither heroes nor fools and so are amenable to stifling preference expression when the costs of doing otherwise are substantial. Therefore, they will often publicly acquiesce to what is politically fashionable even when they harbor serious qualms.

The preceding remarks may appear so obvious as not to bear repeating. In *Private Truths, Public Lies*, however, Kuran employs these concepts to generate theoretically rich results that are far from obvious. Perhaps the single most significant is that the aspiration of social science to offer robust predictive theories on the model of the hard sciences is apt to be more elusive than practitioners hope. Indeed, it may be impossible in principle. That is not simply because the variables are numerous and complex; much the same can be said about meteorology. Rather, it is because these variables include the preferences of individuals who often have reason to conceal their true direction. Empirical investigators will regularly be stymied because the objects of their attention are approximately as smart and resourceful as they themselves are and very likely have more to lose if unsuccessful in their designs.

It follows, contrary to some formerly dominant and still widely subscribed-to theories in the philosophy of social science, that prediction

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and explanation are asymmetrical. For many events, especially those of profound historical importance, such as social revolutions, it will be impossible for even the sociologically shrewdest, best informed observer to predict their occurrence until they are actually unfolding, yet after the fact their explanation will be child's play. Despite the best efforts of those who seek its clues, history will remain surprising and fast-breaking until after it has happened.

Viewed from a different angle, this asymmetry may amount not to slippage by the social sciences from the lofty standards achieved in the hard sciences but rather to rapprochement. Even those of us who understand nothing more of chaos theory than the remarkable hurricane-producing potential of that famous butterfly flapping its wings in the Amazon rain forest have been made aware that deterministic causal models may prove unattainable even in their native precincts. Although Kuran does not borrow directly from chaos theory, some of his models have a similar structure. For example, he elegantly demonstrates in several contexts how micro causes can have macro effects. As in the movie *Network,* one irate man standing up and yelling "I'm mad as hell!" can set off a chain reaction that topples an entire regime. That potential exists because individuals appraise their own preference revelation options by reference to their estimate of the preferences held by others. Someone close to the margin between remaining quiet and speaking up can be pushed over the edge by the evidence this one performance provides. When she adds her denunciation, that may be enough to bring in the third person, and so on until the balance tips from quiescence to revolution. If, however, underlying expressive preferences are slightly altered by making the third person in line just a bit harder to influence, the process dies aborning. There is some absurdity to the idea that momentous turnings of the tide can hinge on such trivial underlying phenomena, and so theorists have resisted drawing such conclusions. The cogency of the model developed here will make it difficult for them to continue to do so.

The persuasiveness of the preference-falsification theory is enhanced by the wealth of illuminating examples. Kuran's remarkable erudition takes him from the world of medieval Islam to the antebellum South to Nicaraguan Sandinismo, with various stops in between. However, the three test cases repeatedly presented in alteration with more theoretical chapters are the abrupt collapse of Communist regimes across Eastern Europe during the wonder year 1989, the persistence over many centuries of the Indian caste system, and the scarcity of open opposition in the United States to affirmative action, despite considerable private unease with a system of preferences and quotas. While these treatments are not equally successful, the fact that one theory can help resolve conundrums over so wide a range of phenomena attests to its richness and power.

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Kuran is on firmest ground in dealing with the anti-Communist revolution. I know of no other analysis that simultaneously so well explains why the revolutions took by surprise not only area specialists but also their primary instigators such as Václav Havel; why cautious, tentative initial demonstrations of protest by a daring few so quickly snowballed into almost universal open opposition; why hard-nosed authoritarians who had not previously shown themselves to be overburdened with humanitarian compunctions meekly acquiesced on this occasion to their own overthrow; how the outpouring of opposition to the regimes significantly affected individuals' private political preferences; and other facts, too. The explanation by way of progressively unveiled preferences may receive useful supplementation, but I do not think it will be supplanted.

Kuran's discussion of the stability of the caste system contains less abundance of detail but contributes another important theme: the victims of a system may themselves be induced to support it publicly and to turn on its detractors in order to represent themselves as ardent exponents of the regnant orthodoxy. Kuran downplays alternative accounts of the buttressing of caste such as belief in the doctrine of karma, which holds that one's station in this life is a function of desert accrued during prior incarnations and that how well one bears up under the constraints of the current station will determine one's position in a future life. Kuran indicates that he believes the doctrine was designed to serve as an opiate of the masses, but in this he may fail to take seriously enough the independent power of ideas. After all, it is not only within Hindu theology that we observe an attempt to offer some justifying account of the vagaries of a fortune that sets some men up high and drags others low. Job, for instance, was not an untouchable. Dynamics of social exploitation duly noted, there seems in addition to be some wellnigh irresistible need on the part of human beings of all ranks to understand their world as morally making sense. Perhaps in this case, then, private and public preferences are more congruent than Kuran wishes to allow. Nonetheless, it is hard to deny that preference falsification plays some role, perhaps a dominant one, in the persistence of caste.

Despite the analytical gems contained in these two treatments, I would be very surprised if the third does not attract the lion's share of response. Many commentators will dispute Kuran's claims that criticisms of affirmative action are relatively scarce and that deleterious reputational effects attach to overt expressions of opposition to the doctrine. Perhaps Kuran's prolonged exposure to the norms of the academic environment (not to mention those of hip Los Angeles) has led him to overstate the public hegemony of affirmative action. This observation may, though, be less a genuine bone of contention than a matter of timing. Like many authors before him who have written on topical concerns, Kuran has been overtaken by the rush of events. If

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affirmative action was once sacrosanct, it surely is no longer. As I compose this review, the Republican Party is gathering in solemn assembly to nominate Bob Dole for the presidency and to furnish him with a platform that takes affirmative action severely to task. Simultaneously, the state of California is gearing up for a citizen's referendum on the question of dismantling policies of racial preference within its borders. This rising wave of anti-affirmative action sentiment is, of course, entirely consistent with and, indeed, supports Kuran's theory of the sudden unraveling of ingrained habits of preference falsification.

There will be time enough to see whether, like communism, affirmative action implodes under the weight of the falsifications it engenders. I wish to turn instead to a different issue suggested by the affirmative action discussion: whether Kuran's understanding of the nature of private preferences is too monolithic. In an interesting discussion of the preferences of black elites (elected public officials and officers of civil rights organizations) versus those of common citizens, Kuran cites confidential opinion polls that show sharp divisions over affirmative action policies and related issues. He then observes, "Yet black public opinion remains highly supportive of the national black leadership.... Fear-induced preference falsification explains the paucity of public black opposition. However, it leaves unexplained why orthodox black leaders repeatedly win elections decided by secret ballot" (151). Perhaps because he perceives the potential for significant embarrassment to his theory, Kuran offers four possible explanations. Even cumulatively they carry little conviction. For example, he concludes his response by offering, "Finally and perhaps most significant, because almost all candidates for high office in major civil rights organizations and in heavily black districts support the conventional black agenda, voters rarely get much of a choice on affirmative action" (151–52). But this simply begs the question. Why are choices so restricted? If latent opposition to elite ideology is widespread, what accounts for the market failure in the political domain? Why don't entrepreneurial vote-harvesters emerge to take up the opportunity to offer citizens a broader range of alternatives, thereby serving their own interests?

I believe that the problem is largely insoluble within the framework to which Kuran restricts himself. To get beyond it we need to recognize that private preferences do not come in just one flavor. Rather, they are multifarious; they differ with regard to the conditions that bring one or another to the fore; not infrequently they clash among themselves. Perhaps the simplest example of private preferences jostling is the philosopher's venerable phenomenon of *akrasia*, "weakness of will." When I vow to myself that I shall eat with moderation at the dinner party and then later find myself unable to resist consuming the sixth eclair, my preferences are at odds with

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themselves: not private versus public preference but a conflict within the private realm. I desire both to dine sparingly and to eat until I cannot swallow another bite. Similar predicaments include the tobacco addict who desperately wants to quit but lights up over and over again; the endlessly postponed trip to the dentist; the person who tells herself she will start a program of regular savings "any day now."

Kuran is an economist by training, and economists do not like akrasia. It upsets what would otherwise be perspicuous and simple models of rational decision making. So instead of attempting to explain it, they prefer to explain it away. For example, the eclair windfall will be reinterpreted not as conflicting preferences but as changing desires; early in the day I wish not to eat lots of eclairs but later in the day I do wish to eat them. For various reasons, this attempt to maintain the tidiness of the theory of preference fails: a chief obstacle is that even as the person gives way to desire, she can be fully aware that she is acting counterpreferentially. This happens if someone prefers X to Y but also prefers that her preference ordering were Y over X. The conflict involves desires operating at different levels: ground-floor desires, desires about which desires one will have, perhaps even additional levels.

This sort of complexity within an individual's volitional makeup is fairly familiar in a literature going back at least to Plato. Let me introduce another, slightly different in form and perhaps more relevant to the puzzle raised about the private preferences of ordinary black citizens. Sometimes people believe they ought to act in a certain way but fail to do so because the costs are high. Suppose, for example, that you have been brought up to believe that someone who is relatively affluent is morally obligated to devote an appreciable amount of income to charitable relief of the poor. You may, nonetheless, undertake little poor relief. You make the decision because the opportunity costs are high: every $100 you donate to a worthwhile beneficiary is $100 of personal consumption forgone. If, however, you could supply $100 worth of relief at a cost to you of $10 or $1, then you would provide much more of it. Your public performances would then come much more into line with your private moral preference.

Tax deductibility is one way in which the costs of charitable giving are diminished, thus promoting more of it. Another way in which the private and public are rendered less dissonant is by substituting lower-cost expressive acts for higher-cost performances. Whereas giving $100 to the poor will cost me $100—or at least $50 even after taxes—to speak in favor of assistance to the poor or to vote for a policy or candidate promoting poor relief is very cheap. Sometimes such expressive acts are meant to mollify observers. When that is the case, Kuran's dichotomy between private and public preferences suffices. But sometimes the primary audience for these symbolic

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affirmations is oneself. To the extent that individuals are rational, if they have a choice between strategies for relieving unpleasant cognitive dissonance, they will choose the least costly one.

A further example may help clarify the point. Many Jews believe that observing the traditional food prohibitions and complying with Sabbath rest requirements are important components of being a good Jew. Yet someone who positively values that status may be almost entirely unobservant. The reason, of course, is that observance is costly: it is paid in ham sandwiches, shrimp cocktails, and Saturday morning golf games forgone. The tension between preference and cost has created an ongoing dilemma for modern-era Jews. In the Conservative Judaism movement a sort of compromise has been achieved. Only a very small minority of regular congregation members abide by the strictures of the religious law; the vast majority dine and disport themselves unconstrained by Talmudic sanctions. However, almost without exception they demand and receive strict patterns of observance from the rabbis they hire. Why? The most plausible explanation I can come up with involves clashing private preferences. These Jews approve of living observantly but also prefer eating the forbidden foods to not eating them: ergo, conflict. This is resolved by a strategy of compartmentalization. The former desire is given effect in their specifically synagogue-related behavior through vicarious association with and endorsement of the rabbi's mode of life, the latter in their secular activity.

I am inclined to account in a similar fashion for the behavior of ordinary black citizens who vote for representatives considerably more radical than they themselves. On the one hand they prefer low-temperature, moderate racial responses, perhaps because they themselves are then less likely to be burned. On the other hand, they harbor genuine grievances against blatant acts of bigotry they and their ancestors have experienced. Thus they are motivated to support incendiary members of their community who denounce past injustices and demand radical compensatory measures. Both peacefully getting by and boldly striking back are valued; the two conflict, however. Because, as noted earlier, voting is typically a low-cost activity, it is not surprising that the conflict is resolved by indulging one of the preferences through one's vote and the other in the non-electoral arenas of private activity.

Note that to identify an individual's private preferences as being in conflict among themselves is not to label him a hypocrite or dissembler. The person who says he desires not to eat many eclairs (or ham sandwiches) or that he believes he ought to make large gifts to the poor is truthfully expressing genuine values. In this respect conflict among private preferences differs from opposed private and public preferences. But as with that other conflict, how one overtly expresses oneself will be a function of the cost

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schedules one faces in different settings. The cost of giving effect to the preference not to eat eclairs is highest when eclairs are actually present; the cost of acting on the preference to strike back at white oppression is lowest when one is voting for representatives. Therefore, if we are to advance further in explaining social phenomena in terms of manifestations of underlying preferences, we will need to supplement Kuran's private/public dichotomy by acknowledging an inner complexity in the range of private preferences and by attempting systematically to spell out the sorts of conditions under which these different species of private preference will regularly come to the fore.

That, though, is a task for further stages of the research program launched in this book. Adam Smith had the first word on the Invisible Hand, but he certainly did not have the last, or the most comprehensive. And, heaven knows, the history of the past century would have been far less sanguinary if the theory of Marxism had ended with Marx's own writings. Like these predecessors, Kuran has contrived a fascinating motif on which to construct a theoretical base. To say that it merits an extended life beyond this volume is not in any way to disparage the achievement of *Private Truths, Public Lies.* Few recent contributions to the literature of social science open so many windows. This engagingly written book carries its learning and sophistication lightly; one need not be a specialist to enjoy it and receive instruction. I am pleased to have this opportunity publicly to endorse it—and if someone reading these words should wonder if they correspond with my private sentiments, well, that is a further testimonial to the stimulation this book affords.

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BOOK REVIEWS

✦ The Free Society

By Lansing Pollock

Boulder, Colo.: Westview Press, 1996. Pp. vii, 178.
$17.95 paper, $49.95 cloth.

This engaging and intelligent book offers a general defense of a fairly thoroughgoing political libertarianism. It opens with an extraordinarily interesting account of moral foundations, proceeds to a central section on liberty and government, including a very perceptive chapter on the U.S. Constitution, and concludes with a substantial section on liberty and economics informed by important recent scholarship. Lansing Pollock argues that government programs designed to promote health, education, or welfare not only defeat freedom, but do not promote health, education, or welfare. The tendency to deal with perceived problems by mounting another government program, supported by taxes, is counterproductive. Moreover, Pollock has specific recipes for what to do about it. We could, if Pollock is right, undo the damage of the past sixty years in perhaps thirty, and long before those thirty have elapsed be well on our way to enjoying a far more prosperous, happier society.

Because I agree with the author on the major points, and am impressed by his program as well, I will take modest issue with part of his methodological framework and with his defense of even the very limited state he supports. The reader may find these modest criticisms of largely theoretical interest. Nothing I say, moreover, is intended to discourage perusal. Quite the contrary: this is definitely a book to be read, both by those of us who immerse ourselves professionally in these matters and, perhaps even more so, by the intelligent layman.

Pollock says only a little about contractarian theory. He notes that John

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Rawls, Thomas Scanlon, and I come to different conclusions about what rational persons would contract for. This disagreement hardly shows that contractarianism is misguided. Pollock later proposes as a major criterion of appraisal of an ethical theory that it have "explanatory power." One can hardly quarrel with that, but one can quarrel about just what is to be explained: our intuitions about what is right and wrong, for instance? And if those do not coincide, then what? Does this disagreement evince a lack of explanatory power? (One might argue that one of the things to be explained is that some moral disagreements are not easy settled; one might take the continuing disagreement of contractarians on some matters as evidence of the theory's explanatory power about that!)

Libertarianism rests on the *freedom principle*, as Pollock calls it. Its "underlying idea is that interaction should (ideally) be based on mutual consent" (p. 10). I agree with that; but notice that to do so is virtually to accept the *social contract*. I have argued that the social contract will settle on the freedom principle. That argument seems to me more powerful than just affirming the principle and conjecturing that it has explanatory power. In fact, there is something a bit odd about asking morality to explain the facts: isn't morality itself what needs explaining? We need to see what the best moral theory is, in view of the way people are. I doubt that Pollock would disagree: indeed, he rightly criticizes some theories for apparently ascribing to people properties these people are known to lack. Utilitarianism is a classic case in point. No actual person believes, in daily practice, that if spending $100 on food for some unknown person in Turkestan would create more happiness than spending it on a toy for his children, then he ought to buy food for the stranger. A sane morality must work around such things, not steamroll them. Or rather, a sane view of what moral theory should do will point out this reality, and go from there.

In his introduction, Pollock proposes that morality "requires respect for persons as free and equal beings" and that "the values of freedom and moral equality can be combined in one fundamental right, the equal right to be free" (p. 1). The equality in question, however, is unclear and needs explaining, especially if we reject egalitarianism, as Pollock does. In fact, the equality of the right to be free surely consists in nothing more than everybody's possessing that right as his or her sole ultimate general moral right. Pollock also proposes to "contrast two approaches to moral thinking"—consequentialism and what he calls "Kantianism." According to the former, "we should produce the greatest balance of pleasure over pain"; according to the latter, "the primary concern of morality is how persons should relate to each other" (p. 19). But the latter is nothing more than a definition of the domain of morals, not an "approach": utilitarianism, for example, is a theory of how persons should relate to each other.

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Many moral philosophers claim that people have, in addition to the equal right to be free, the "equal right to basic goods." Pollock calls this "dualism" and points out that it is possible to be "a theoretical dualist and a libertarian in practice" if one holds that the best way to ensure that people have basic goods is to let them work and, where necessary, rely on voluntary programs of assistance. But the terminology is inappropriate. For if libertarianism maintains we do not have a duty to feed the needy, whereas dualism does, then the two would seem to be theoretically incompatible but, owing to the contingent truth of the point just stated, practically compatible. They can be made theoretically compatible if one takes precedence over the other. But the right to freedom is special. If we have a right to do what we like, provided only that we do not harm others, then we cannot be forced to do anything else. A right to the satisfaction of basic needs is ordinarily propounded as a positive right, which entails a duty that others cater to it. They must do so if it is actually a right. A right does not exist if you are excused from its duties simply on the ground that you don't want to carry them out; but a right to be free, limited only by the same right of others, allows precisely such an excuse.

Turning to the State, Pollock asks whether we can have a government "strong enough to protect rights but that does not violate rights" (p. 58). If government imposes taxes for its support, the answer is evidently no.

Pollock advocates doing without taxes eventually, resorting in the meantime to user fees instead. This system could approximate market anarchism, provided the fees were equal to the prices one would pay for the services on the free market. The proposed user fees amount to a resource tax "equal to what the land [or other resource?] would lease for—if it were leased" (pp. 58–59) Revenue from that source would fund the police and, if necessary, national defense forces. Why a resource tax? Income and sales taxes, he says, violate property rights. Why don't resource taxes do so? Pollock claims that they are really fees for use; one pays for the right to exclusive use of the property, and if one doesn't want to pay, one simply refrains from using it.

This proposal raises basic questions about property. "Most libertarians believe that natural resources should be privately owned.... The fundamental problem for this view is to explain how persons acquire exclusive rights over natural resources. I believe that there is no good answer, within the standard libertarian framework, to this problem" (p. 61). Some of us think we have given an answer. Presumably no libertarian worries about how we come to acquire exclusive rights to our selves, for example, although our selves are quintessential resources. In fact, we don't "acquire" such rights; we assert them against other persons, who in turn assert them against us, and our agreement is to respect the rights in each other's selves.

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What about natural resources? Notice first that no natural entities as such are resources. Human effort and ingenuity make them resources. The lease value of a natural entity as such is always zero. A natural entity for which a use has been discovered has value. The persons who discovered this use have, prima facie, done the rest of us a useful service; we can make it worthwhile for people to discover more such uses by buying their information or the products they manufacture by utilizing it. Most writers, including Pollock and many others far to his left, agree that people should be able to use things if they acquire them first: "a first appropriator...has incorporated this resource into his projects, and this gives us a reason for not interfering" (p. 61). Indeed it does; and there is no basis for charging someone for having become the first appropriator.

But, says Pollock, "Obviously there is a huge jump from thinking that we should not interfere with an agent's ongoing use of some land to the conclusion that the agent has a permanent, bequeathable right to the land" (p. 61). Why? With luck, effort, and ingenuity, the value of the land might rise between its first acquisition and its eventual sale or transfer. But at each step, one has secured agreement with all relevant parties—the whole point of the freedom principle. One does all these things without (necessarily, or for that matter ordinarily) violating anybody's rights. Indeed, at each step the other people with whom one deals are better off as a result of the dealing. This sequence is hardly a "jump" licensing the wholesale forfeiture of resources to the State. Yet the taxation of resource users amounts to precisely that.

To survive, states must impose taxes, and all taxes are evil. Elsewhere Pollock agrees that the only thing to do, if one must have a state, is resort to the least onerous tax. But why have a state? Near the beginning, Pollock offers what he agrees are familiar objections to anarchism: "the general point is that the risk that anarchism will lead to anarchy (in the pejorative sense of the term) is too great" (p. 2). One might respond by suggesting that the risk that a state will degenerate into totalitarianism is, likewise, too great. Suffice it to say that this issue requires a research project and that Pollock's position has the important merit of realism.

The State is not about to go away, but maybe we could realistically do something to make it better. The rest of the book can, and I think should, be read in that spirit, though not in the spirit of its having established a case for the State in any form. Unfortunately, the State's mishandling of the very powers that every statist thinks are most essential to it—police and judicial powers—gives rise to our greatest sorrows.

On the other hand, Pollock is well aware of the solidly empirical nature of the case against the welfare state. Disarmingly, he notes, "This is a hard pill to swallow; I speak from experience, for I have wavered on this issue many times. I am now convinced, however, that the failure of government

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programs to reduce poverty means that a radically different approach is needed and that the libertarian solution is better than the alternatives" (p. 3). He may yet reach that conclusion about police powers, too, especially if he bears in mind the facts, of which he is well aware, about the American experience with drug laws. Police with monopoly powers are unguarded guardians.

One of the many outstanding chapters in this book is the one on the U.S. Constitution. It is instructive to see how plausible a robustly libertarian reading of that document is. Pollock first argues, correctly in my view, that in the Declaration of Independence the rights to "life, liberty, and the pursuit of happiness" refer to just one right—the equal right to liberty. The right to life is the negative right not to be killed, and the pursuit of happiness is "what people do when they have the freedom...to pursue their own good in their own way" (p. 73). He also finds a general libertarian intent behind most of the items in the Bill of Rights. This interpretation is not in the spirit of a slavish adherence to the framers' "original intent." Rather, he asserts, "the best reason for accepting the founders' political outlook is that it is better than its competitors" (p. 78).

Besides the essentials of national defense and law enforcement, Pollock lists a number of familiar functions as reasonably entrusted to governments: water and sewer services, streets and roads, parks, student loans, and certification or licensure. These are all domains in which user fees provide the model for charges, so taxation as such is unnecessary. These services are also, in my mind, obvious candidates for privatization. On the other hand, he proposes that we dispense with welfare programs, public schools, and Social Security (p. 86). Most contemporary readers will find this proposal pretty strong stuff, though to this reader it is common sense informed by a good grasp of economics and recent American history.

What is perhaps most conspicuously attractive about this book is that it speaks to ordinary, though intelligent, people in language they can understand and connects its arguments nicely with widely shared beliefs without lapsing into wholesale intuitionism. Its general air of calm good sense and tempered reason is highly appealing, and it offers much to think about, and speaks very plausibly on a great range of extremely important matters. It seems obvious that the libertarian society Pollock describes would be greatly better than the present one(s). But as he is well aware, massive forces are arrayed against *the free society*. The ideal of the free society has largely lost its hold on the intelligent lay public, who side, if unwittingly, with the bureaucrats. The better society depicted is not around the next corner.

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✦ Against the Tide: An Intellectual History of Free Trade

By Douglas A. Irwin

Princeton: Princeton University Press, 1996.
Pp. 265. $29.95 cloth.

In medieval times, men devoted great efforts to the search for a formula to turn lead into gold, but the endeavor proved futile. People eventually learned they could not turn the trick and stopped trying. Unfortunately, people continue to seek another road to easy riches—trade restrictions.

Since the rise of the European nation-state, many arguments have been advanced purporting to show that a nation can make itself wealthier by restricting trading between its own citizens and others. Tariffs or quotas of the right sort can give a nation a "favorable" balance of trade, protect its "infant" industries, improve its terms of trade, give it a more prosperous industrial mix, protect the high wages of its workers or, in some other way, make it better off than it would be under free trade.

In *Against the Tide,* Douglas A. Irwin investigates the intellectual history of the debate over free trade. "With uncanny regularity," he writes, "a major theoretical argument for protection surfaces every few decades and sparks controversy among economists about the strengths and weaknesses of the case for free trade" (p. 4). In view of the tendency of Americans to engage in bouts of protectionist rhetoric and policy, one welcomes a book that reaffirms the value of free trade and debunks the arguments against it.

Irwin first leads the reader through the origins of the free trade doctrine—the idea that government interference with trade necessarily reduces economic efficiency and lowers the standard of living. This doctrine took a long time to develop. The ancient Greeks and Romans generally did not advocate trade with foreigners, mainly because they feared that contact with outsiders would contaminate their societies. The early Catholic Church condemned trade because it encouraged avarice and the pursuit of worldly gains. Notwithstanding a few earlier dissenting voices, not until the rise of natural law philosophers such as Suarez and Grotius in the seventeenth century did a confident argument appear in favor of allowing people to trade freely. This argument, however, rested on ethics rather than economics and failed to convince other natural law theorists, such as Emerich de Vattel, who wrote, "Every nation may decide upon what conditions it will receive foreign goods, and may even refuse to receive them at all" (p. 24). This passage demonstrates a great failing in the trade debate—and many other

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public policy debates—the tendency to speak of the rights and interests of nations rather than individuals.

The thinking of the mercantilists, whose views prevailed before the ascendancy of the free-trade doctrine, evinced such statism. In their view, the purpose of foreign trade was the enrichment of the nation, and this could be accomplished by a trade policy encouraging exports, which bring in gold, and discouraging imports, which send out gold. Displaying the characteristic hubris of interventionists, the mercantilists presumed to know what kinds of trade were good or bad and proposed to regulate people accordingly. Theirs was the theory Adam Smith set out to refute in *The Wealth of Nations*. Irwin notes, however, that three-quarters of a century before Smith's great work, Henry Martyn penned a masterful tract entitled *Considerations upon the East India Trade* that brilliantly anticipated the Scottish professor's main arguments.

Irwin does an excellent job of presenting Smith's case for free trade. Trade is beneficial because it permits people to specialize in what they do best. Driven by self-interest, specialization will maximize production, and producers will then trade their output for the more valued outputs of other specialists. Smith saw no reason to limit the gains from specialization and trade by confining them within the artificial boundaries of nations. The larger the market, the greater the benefits. The "invisible hand" of the market would direct resources into their best uses. Thus, government efforts to direct commerce into better lines, as the mercantilists had urged, must necessarily reduce the economic well-being of a nation—the goods and services its people consume.

Smith's cogent argument routed the mercantilists. To this day, the great majority of economists accept his conclusions about trade. Writers such as James Mill, Robert Torrens, and David Ricardo extended and strengthened the case for free trade early in the nineteenth century. John Stuart Mill endorsed it (with an exception to be noted shortly) in his highly influential 1848 treatise *Principles of Political Economy*.

In the second part of the book, Irwin examines the main arguments trade interventionists have advanced over the last two centuries, having to do with the terms of trade, infant industries, wage differentials, strategic trade policy, and other things. In each instance, he fairly presents the contentions of the advocates of trade restrictions, then the rebuttals of the free traders. Each time, we see that opponents have done little or no damage to the free-trade doctrine, having committed analytical mistakes in reaching their conclusion that government coercion can improve on the flow of production and commerce in a free market.

Consider, for example, the infant-industry argument, once supported by John Stuart Mill, who eventually recanted after an avalanche of criticism.

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This posits that a nation can better itself by employing temporary protective tariffs to shield its "desirable" new industries until they can compete successfully in the world market. In the long run, the nation's—those arbitrary boundaries again!—gain supposedly exceeds the cost to consumers who pay higher prices for the good produced by "their" industry until the tariffs are finally removed. Alexander Hamilton supported this strategy, and it still surfaces from time to time. Just a few years ago, it was seriously argued that the United States needed protective tariffs on high-definition televisions because the Japanese had taken the lead in developing HDTV and American producers would not be able to compete in an open market.

What's wrong with the argument? A great deal, Irwin shows. For one thing, we have no reason to believe that government officials can pick the optimal industries in which to invest scarce capital better than business people can. Government officials tend to favor industries that are successful elsewhere, often those with some kind of prestige, which may be entirely inappropriate in the protected country. The fantastically wasteful Mexican steel industry is a case in point.

Nor do we have any reason to believe that the prospect of short-run losses will deter business people from investing if they foresee sufficient long-run gains. People start up infant *companies* all the time, entering into competition locally, regionally, nationally, or even globally with the expectation that initial losses will be offset by later profits. Government need not undertake the entrepreneurial function.

Finally, it's unreasonable to expect that the infants protected from competition will ever mature. More likely, the workers and owners of the industry will form a potent special-interest group, striving to hang onto their political privilege, always at the expense of consumers.

Free trade's great virtue is that it keeps government from manipulating the economy by altering natural patterns of production and trade. Government might enact innumerable protectionist or manipulative trade interferences; it can adopt but one free-trade policy, which consists simply of the absence of all such interference. As Alfred Marshall wrote, free trade is an advantageous expedient because "it is not a device, but the absence of any device" (p. 221).

Henry Sidgwick, himself an advocate of the infant-industry argument, wrote that "the gain that protection might bring in particular cases is always likely to be more than counterbalanced by the general bad effects of encouraging producers and traders to look to government for aid in industrial crises and dangers, instead of relying on their own foresight, ingenuity and energy" (p. 227). Exactly. The search for the rare—and I contend, nonexistent—case in which government with its highly limited information can outsmart the market leads straight to costly economic blunders.

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Against the Tide is a splendid work, about which I offer only a few quibbles. First, although the book is commendably free of opaque economic jargon, some of the discussion would have been more comprehensible if the author had included examples to show just how the advocates of protectionism or "managed" trade believed their policies would be advantageous. Sometimes the connection between theoretical exposition and imagined results is hard to see.

Second, Irwin pays little attention to two powerful arguments against trade restrictions: the retaliation argument, that any putative gain from trade restrictions or subsidies will be short-lived because other governments will follow suit; and the Public Choice argument, that the incentives facing political decision makers render it almost inconceivable that the politicos will use their power in the public interest, even as conceived by the interventionists. Irwin mentions these considerations briefly in the final chapter, treating them as backup arguments for free traders. But these arguments are powerful weapons in the free-trade arsenal, and I would have preferred a more extended treatment of them.

Third, Irwin treats the terms-of-trade argument too generously. He writes that this "appears to be the most robust and least subject to qualification or exception, and it remains the most widely acknowledged and generally accepted restriction to free trade admitted by economic theory" (p. 115). The idea is that by imposing export or import taxes on the right goods and in the right amounts, a nation can enjoy more favorable terms of exchange with foreigners by extracting additional revenue from them.

Even supposing this to be true, should one assume that the nation is better off with more revenue in the government's coffers instead of the hands of foreign buyers and sellers? If the government could tax a billion dollars away from, say, Sony or BMW, would that exaction benefit the general public of the United States—as opposed to the rulers and their friends—or would it simply reduce the ability of those firms to produce goods we desire? Here again, we see the unfortunate impact of the mercantilistic fixation on national boundaries.

Overall, however, Irwin has written an excellent book, and I recommend it to anyone interested in gaining a deeper understanding of the free-trade controversy than one gets from the sloganeering that usually passes for rational debate on this subject.

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✦ Adam Smith's System of Liberty, Wealth and Virtue

By Athol Fitzgibbons

Oxford, England: Clarendon Press, 1995.
Pp. vi, 214. $45.00 cloth.

This book is an attack on the view that Adam Smith conceived of the science of economics after shelving moral considerations and wholeheartedly approving of the motivating force of self-interest. This view, which the author claims to be widespread among Nobel-prize-winning economists, rests exclusively on a superficial reading of *The Wealth of Nations (WN)*. Fitzgibbons argues that in Smith's preceding book, *The Theory of Moral Sentiments* (*MS*), virtue, and not self-interest, was the most workable standard in life. Moreover, he did not place morals and economics in different compartments but strived to integrate them in one all-embracing philosophy. *MS* indicates that Smith intended his theory of morals to be the intellectual foundation of a total system that included politics, economics, and law. He wanted to supplement the free market with a public recognition of virtue. Ultimately his system described an economy operating within a framework of moral self-constraint.

But what was the basis of Smith's moral theory? Fitzgibbons provides an overview. Smith dispensed with early Christian rationalism because it was preoccupied with preparing people not for this world but for the next. In addition, Smith, like Hume, wanted to replace the Aristotelian worldview with an outlook more consistent with the science of Sir Isaac Newton. Newtonian physics had replaced Aristotelian physics, and Smith belonged to the new group of thinkers who opposed Aristotle and the Greeks whenever their doctrines were inconsistent with "science." But whereas Hume wanted to replace virtue and practical reason with utility, Smith insisted on a moral version of the liberal state. Ultimately he believed that it was possible to make higher and lower motives compatible, to the benefit of society, by discovering the relevant laws of nature (p. 16).

Whereas Hume rejected the past, Smith looked to it for inspiration. He rejected Christian virtue in favor of Cicero's stoic version, which implied the practice of virtue in political and public life. But whereas Cicero was preoccupied with a virtuous elite and a philosopher-king, Smith proceeded to offer a general scientific theory of virtue with wide application. A liberal system of laws then followed from Smith's science of morals. Although Smith rejected unworldliness and the Christian worldview, he did not promote materialism and self-love rather than virtue. "Smith was neither an idealist...nor a materialist...but a Stoic philosopher who wanted virtue to be relevant to this life rather than the next" (p. 19).

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Smith's moral theory led to a theory of jurisprudence that implied a cultural code and a political constitution. Political states that excluded either liberty or sound values thereby violated the laws of nature and hence were ultimately doomed. Fitzgibbons concludes that Smith's economic theory was subsumed under his jurisprudence. For Smith, this was not a positive science of actual laws but a study of the principles that must inform the law if moral impartiality were to be respected. It was meant to replace the supreme judgment of the Greek philosopher-kings with the scientific predictability of the law. To elicit it, one must consult with Smith's impartial spectator.

Fitzgibbons makes much of the differences between Smith and Hume, pointing out that the latter rejected the impartial spectator. He also notes that although Hume thought property was an arbitrary convention, Smith believed that a valid title to property required a moral foundation.

Regarding the moral principles Smith wanted to inject into commercial society, Fitzgibbons does not emphasize sufficiently that Smith considered prudence, as well as justice and beneficence, to be one of the virtues. Because it is prudent to buy in the cheapest market and to sell in the dearest, it would seem that Smith and Hume converged. Fitzgibbons stresses, however, that for Smith prudence was not enough. There was the additional need "to encourage participation in civic life" (p. 103). This suggests, of course, the concept of "civic humanism" sometimes attributed to Smith. It is difficult, however, to find in Smith's writings explicit encouragement to the working population to attend public meetings, participate in voting, witness council chamber proceedings, and so on. Certainly Smith speaks in terms of "good citizenship," but this can be practiced in one's workplace and neighborhood. Because Smith, following the Stoics, regarded the individual as a "citizen of the world," he concluded that the best available way to help fellow individuals globally is by participating in the free market, an institution that alone has the virtue of ensuring that the unknown and unimportant have their wants served along with those of others.

It seems predictable that many economists will see this book as a case of the philosophy tail wagging the economics dog. Granted that much moral philosophy attaches to Smith's economics, and despite Fitzgibbons's contention that "there was no 'modern economist' inside Adam Smith trying to get out" (p. 171), *WN* contains many indications of the development of economic thinking for its own sake. New-found foreshadowing of late-twentieth-century economics in Smith's *WN* now includes the modern principle-agent problem; the monetary approach to the balance of payments (which Fitzgibbons appears to have missed); credit rationing; theories of screening and sorting; the theory of rent seeking; the theory of organization;

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human capital theory; and the theories of nonprofit enterprise, public goods, public choice, and nonmarket behavior in general.

Fitzgibbons speaks with less authority on economics than on philosophy. He argues that Hume, not Smith, founded the neoclassical school of economics and that this school, later developed by writers such as Sir John Hicks and Paul A. Samuelson in the mid-twentieth century, "presented general mathematical accounts of the economy that were built by summing individual utility functions, and *all of whom have included an account of economic change over time*" (p. 191; my emphasis). The implication is that Smith suffers by comparison. But the boot is on the other foot. Smith *did* include an account of economic change over time, whereas those of the neoclassical writers mentioned were unsatisfactory. Their mathematical constructs, which so impress Fitzgibbons, need the constant-returns-to-scale assumption to permit the derivation of formal existence proofs. Yet *The Wealth of Nations* generally denies constant returns and contains fundamental obstacles to all these attempted general-equilibrium models. The central challenge occurs in chapter 3 of *WN,* "That the Division of Labour Is Limited by the Extent of the Market." What is a market? Surely it is the ability and willingness of individuals to purchase, a function of produce offered in exchange. Smith's pin factory example was one of increasing, not constant, returns; the large volume of pins produced after specialization created a demand for other things in exchange. In the words of a famous article on Adam Smith's system by Allyn Young ("Increasing Returns and Economic Progress," *Economic Journal* 38 [December 1928]: 527–42), "The counterforces which are continually defeating the forces which make for equilibrium are more persuasive and more deeply rooted in the constitution of the modern economic system than we common realize." And Young's interpretation is the one currently gaining ground. (See J. M. Buchanan and Yong J. Yoon, *The Return to Increasing Returns.* Ann Arbor: University of Michigan Press, 1994.) That the dynamic account of economic change in *WN* cannot be easily handled by neoclassical mathematical economists reflects badly on them rather than on Smith.

The only question that remains is whether the derivation of Smith's vision of dynamic economic change via his theory of increasing returns was also connected primarily with his moral philosophizing. I have my doubts.

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✦ The Sacred Fire of Liberty: James Madison and the Founding of the Federal Republic

By Lance Banning

Ithaca: Cornell University Press, 1995. Pp. x, 543. $39.95 cloth.

In recent years some historical sociologists, critical of the tendency of Marxist and other forms of grand social theory to disregard empirical evidence, have urged a strategy of "bringing the state back in" to the study of politics. Their point, a methodological one, is that formal institutions of government really do exist and have a significant impact on the course of political events. Most constitutional and legal historians have not required instruction on this point, but the idea of "bringing the states back in" might serve as a useful description of recent developments in constitutional jurisprudence that reflect the exhaustion of nationalism as a creative intellectual and political force.

Lance Banning's new book on the political and constitutional thought of James Madison in the American founding signals this intellectual development in historical scholarship. Banning shifts the focus of study from the "republicanism versus liberalism" problem that has preoccupied historians for a generation, to the older and more fundamental issue of centralization versus states' rights. The direction of Banning's work is particularly important in view of his reputation as a leading exponent of the "republican-ideology" interpretation of early American constitutionalism.

In a 1988 essay Banning distanced himself from republican ideological orthodoxy in arguing that republican virtue did not, in essence, mean "self-surrender," but rather "vigorous assertions of the self within a context of communal consciousness and a willingness to live by the community's decisions" ("Some Second Thoughts on Virtue and the Course of Revolutionary Thinking," in *Conceptual Change and the Constitution,* edited by T. Ball and J.G.A. Pocock. Lawrence: University Press of Kansas, 1988, p. 200). Banning stated that the fundamental premise of a properly balanced republican constitutionalism was the existence of self-interested individuals and groups.

Banning's study of Madison presents the results of a fresh examination of the sources based on a deeper understanding of what is now generally recognized as the *liberal republican* political philosophy of the American Revolution. Revolutionary principles, Banning writes, "always meant *both* firm securities for private rights *and* the perpetuation of a form of government that derived entirely from, and remained responsive to, the body of an equal people" (p. 213). Madison, acknowledged in recent scholarship as the

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most penetrating and representative political thinker among the authors of the Constitution, did not shift from classical republicanism to liberalism in the constitution-making phase of the Revolution, as has been thought. He was a liberal in subscribing to the social contract theory of the origins of government and the idea that the end of government is to protect the liberty and property rights of individuals. He was a republican in holding to the "neoclassical," seventeenth-century English commonwealth idea that for the preservation of public liberty "a certain virtue in the people" was still necessary (p. 218).

Having worked his way out of the conundrum of republicanism versus liberalism, Banning finds himself back in the states' rights versus consolidation dilemma. Maintaining an open mind on this issue, which has long been thought laid to rest by New Deal nationalism and centralization, he presents a unified interpretation of Madison as a federalist-minded revolutionary and constitutionalist. On its face this may not seem to be saying much; the concept of federalism has acquired such a protean meaning that it can be used, as in Samuel Beer's recent *To Make a Nation: The Rediscovery of American Federalism* (Cambridge, Mass.: Belknap Press, 1993), to justify a virtually unitary state. In Banning's view, however, federalism has a real and irreducible states'-rights dimension.

Banning questions the now-standard interpretation of Madison as a proponent of radical nationalist constitutional reform in the 1780s, who under the pressure of partisan politics in the 1790s experienced a states'-rights conversion. Reflecting the methodological, not to say philosophical, dissatisfaction with historicism that immersion in the documentary sources often produces, Banning complains that the "Madison who speaks to us today through modern secondary studies is in largest part a creature of our own interpretive conventions" (p. 368). He enjoins, "Let us hear from Madison himself and not from some theatrical concoction of our own political debates or of our current, doubtless fleeting scholarly conventions" (p. 368). The proper task of the historian, Banning submits, is to understand Madison as he understood himself. And to do this it is necessary, above all, to acknowledge the extent to which state sovereignty and states' rights were foundational to his thinking.

In the historiographical commentary that forms a subtext of this strongly argued and deeply personal book, Banning is at pains to refute the charge, bluntly issued by progressive historians in the early twentieth century and more subtly by proponents of the republican ideological school, that in pursuing constitutional reform in the mid-1780s Madison lost faith in the democratic promise of the Revolution. While not denying Madison's fear of popular abuses, he insists that Madison never so much as hinted at a counterrevolutionary attitude, as some Federalists did. Throughout the

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entire revolutionary era, he argues, Madison's thinking was of a piece: he never doubted that liberty defined as security of individual liberty and property rights was inseparable from liberty defined as popular self-government under the rule of the majority.

In post-World War II historiography on the Revolution, the critique of progressive history took the form of an interpretation emphasizing the emergence of nationalism as an organizing principle of American politics and its institutionalization in appropriate constitutional forms. Banning's answer to progressive and neoprogressive history takes a different tack. In the broader perspective of constitutional history, his main point is that in order to properly understand the design and intent of the American Constitution, it is essential to grasp the "confederal dimensions" of Madison's thought.

Banning analyzes Madison's concept of federalism by focusing on his continuing attempt, throughout the revolutionary and Constitution-making era, to define "the practicable sphere" of a republic. Madison constantly searched for "the middle ground" between destructive localism and equally destructive consolidation (p. 211). No formula of constitutional language or legal rule could establish, once and for all, the point of equilibrium between the powers of the states severally and the powers of the states as united in the federal government. In a sense, of course, the quest for the proper point of equilibrium between the governments of America was instrumental and expedient. The reason for seeking the middle ground, the ultimate end, was to sustain healthy republican politics. Governments at both levels, even under the Articles of Confederation, were required, and in some sense were authorized, to secure liberty and justice. The rule of prudence, therefore, must guide decisions concerning the right balance between the states and the general government, whatever institutional form the government of the Union might assume.

But the search for the middle ground or the practicable sphere of a republic must also, it appears, be regarded as an end in itself and an intrinsic good. When we respond to the imperative of justice, as the English writer Christopher Hollis long ago observed in a perceptive study of American politics, it is easy to assume a universal outlook and believe that everything is everybody's business. A logical case could be made for a world state dedicated to justice that would permit no eccentricity of conduct or freedom of opinion. The chief and admirable argument for dividing the world into states, Hollis suggested, was that the application of such logic would in practice be intolerable (*The American Heresy.* New York: Minton, Balch, 1930, p. 141). In America, as John Dickinson said at the Constitutional Convention, the "division of this Country into distinct States" may have been an "accidental and lucky" occurrence. But it turned out to be a remedy

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for the diseases that throughout history afflicted republican government, and must therefore be maintained on principle.

According to Banning, Madison consistently adhered to this understanding of the constitution of the American polity, even—or perhaps especially—when he sought to strengthen the general government in 1787. It was Madison's conviction that the practicable limits of a republic could be extended on a continental scale only by relying on the partly federal features that any constitutional regime in America must have. That is to say, a republican government for the nation as a whole, as projected in the Constitution of 1787, could not be a republican government simply. The vote for the Connecticut compromise in July 1787 signified that in order to agree on a constitution it was necessary to bring the confederal state back in, at the expense of unity and power signaling consolidated government in the name of a putative national popular sovereignty.

Banning is critical of the emphasis that has been placed on the extended republic-pluralist interpretation of Madisonian constitutionalism. The *Federalist* no. 10 is not the sum and substance of Madison's political thought, he contends, and to treat it as though it were obscures the limited responsibilities the framers regarded as the proper field for federal action. Not only is preoccupation with the argument for the superiority of large republics unhistorical, but it also "seems to have no limits." "Its logic seems to march unswervingly to the conclusion that almost all decision-making should be concentrated at the national level" (p. 208). Banning concedes that in his desire to prevent attacks on private property in the states, Madison believed there were few if any limits to the advantage of a large republic. But the desire to prevent injustice in this respect, although important, was not Madison's paramount concern. The principal task Madison set for himself as a revolutionary statesman and thinker was to find the middle ground between the responsibilities of republican self-government at the local level and at the level of the federal government.

More than was apparent when it was first advanced, the republican-ideological interpretation of the Revolution shared the assumption of progressive historiography that the Constitution was a conservative reaction to democratic excesses in the states, signifying repudiation of the principles of the Declaration of Independence. Banning breaks from this intellectual tradition. He writes: "sometimes, we might say, a crisis of the Union is exactly that—intrinsically and fundamentally political and governmental in its nature, not simply a reflection of an underlying argument between competing social groups" (p. 369).

It is not a criticism of Banning to say that his account does not explain how to distinguish a crisis of the Union that is intrinsically political from one that is not. To employ this mode of analysis, however, strikes a decid-

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edly new note in studies of the Revolution and the Constitution. It is comparable in significance to the rediscovery of an autonomous role for the states in constitutional jurisprudence. Banning's splendid achievement prepares the way for further study of the nature of the Union, an issue that dissatisfaction with the sovereign nation-state in the United States and elsewhere in the late twentieth century makes especially timely.

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✦ The Road to Mass Democracy: Original Intent and the Seventeenth Amendment

By C. H. Hoebeke

New Brunswick, N. J.: Transaction Publishers, 1995.
Pp. xii, 211. $29.95 cloth.

The Constitution of 1787 provided for the appointment of United States senators by state legislatures. In 1913, the Seventeenth Amendment was ratified, installing the current regime of direct election of U.S. senators.

The bloated and special-interest-driven nature of the federal government during this century has led scholars in recent years to reexamine the original framework of the Senate and to consider the causes of the Seventeenth Amendment and its consequences for U.S. twentieth-century politics and society. C. H. Hoebeke's *The Road to Mass Democracy* is an important addition to this growing literature.

According to Hoebeke, the Senate was explicitly modeled after the British House of Lords. It was intended to be an upper-class, conservative body that would check the populism of the democratic House of Representatives. State legislatures would serve as intermediaries identifying and elevating to the Senate the "best men," marked by ability, virtue, and achievement. The Senate would be a "natural" aristocracy, "an agency which would fulfill a function similar to that of the [House of] Lords in checking the runaway tendencies of popular rule, but which at the same time would remain a non-hereditary body" (p. 45).

Hoebeke argues that the idea of using state legislatures as the instrument to create an anti-democratic and conservative body was flawed from the outset. After all, the Constitution itself was a reaction to the democratic excesses of the states and their governments during the period of the Articles of Confederation. The notion that those same state legislatures would appoint senators who would buck a popular tide was absurd. As he

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demonstrates, even after the adoption of the Constitution the state governments remained far more receptive than the national government to populist reforms.

Despite these flaws, appointment of senators by state legislatures was one of the least controversial elements of the new Constitution. Popular election of senators was proposed at the Constitutional Convention but received almost no support. Beginning after the Civil War, however, and escalating through the late nineteenth century, proposals for direct election became increasingly frequent, until the Seventeenth Amendment was finally adopted.

Traditional explanations for the passage of the Seventeenth Amendment can be divided into two categories: "internal" and "external" (Todd J. Zywicki, "Senators and Special Interests: A Public Choice Analysis of the Seventeenth Amendment," *Oregon Law Review* 73 [Winter 1994]: 1007). Neither explanation, however, fully explains the genesis of the amendment.

Internal theorists see the Seventeenth Amendment as a response to the perceived evils of the original method of electing senators, which over time was alleged to have become marked by corruption and gridlock. In some instances the battles in the state legislatures became so charged that no senator was elected at all, resulting in a vacancy in that seat. As Hoebeke notes, these internal explanations overstate the problems with the original system, as most elections were uneventful. Internal models also provide no explanation for the belief that direct election would eliminate corruption and the influence of money in the electoral process. History has shown that direct election increased reliance on political machines to organize voters and increased the importance of raising money to run statewide popular campaigns. Moreover, less intrusive remedies for perceived problems were available, such as repeal of a federal law requiring election of senators by majority vote of the state legislature, rather than by plurality.

External theorists see the Seventeenth Amendment as a footnote to history, a small part of the larger democratizing influence of the Progressive movement. Traditionally, most exponents of external theories have seen increasing democracy as a positive development, as the Seventeenth Amendment supposedly would remove control of the Senate from the smoke-filled back rooms of political manipulators and machines, replacing this corrupt regime with the beneficent sovereignty of "the people." Hoebeke is an externalist, as he sees the genesis of the Seventeenth Amendment in an ideological commitment to democratic principles and ideals, and especially in Rousseau's concept of the "general will." Unlike the Progressives, however, Hoebeke views this commitment to democracy as misplaced and as having consequences unforeseen by proponents of direct election.

For both Hoebeke and the Progressives, direct election of U.S. senators

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was to be the leading edge of a movement to bring to the federal government the democratic changes occurring on the state level, such as recall, referendum, and judicial elections. But nothing of the sort ever happened. There is no national recall, referendum, or election of federal judges; just direct election of senators. Moreover, the evolution of the electoral college into a democratic institution suggests an alternative evolutionary model for the Senate. In fact, by 1913 most states had adopted mechanisms to allow the people to vote directly for senators, thereby seemingly obviating the need for a constitutional amendment. Thus, the external explanations proffered by Hoebeke and the Progressives are incomplete.

Perhaps a more fundamental problem with Hoebeke's thesis is his premise that the primary purpose of indirect election by state legislatures was to create an American House of Lords. Emphasizing the aristocratic nature of the Senate causes Hoebeke to minimize the role of the Senate in the *structure* of the Constitution. In the original Constitution, the Senate was an essential element of both federalism and bicameralism. Hoebeke recognizes these structural features but discounts their importance. In doing so, he ignores a critical element in the story of the Seventeenth Amendment.

Jay S. Bybee ("Ulysses at the Mast: Democracy, Federalism and the Sirens' Song of the Seventeenth Amendment," *Northwestern University Law Review* 91 [Forthcoming, Winter 1997]) argues that the primary purpose of having state legislatures elect senators was to give the states a constituent part in the federal government, thereby appeasing the anti-federalists, protecting the states from federal encroachment, and creating and preserving the structure of federalism. Senators were seen as, and acted as, the states' "ambassadors" to the federal government, representing the states and their interests.

The Senate was also an important part of the bicameral legislature. The ability of factions or special interests to capture control of the federal government was mitigated by requiring bills to receive the approval of the public, speaking through their representatives in the House, and the approval of the state legislatures, speaking through their representatives in the Senate. The transition to direct election made the constituencies represented in the House and Senate more similar, thereby facilitating creation of logrolling agreements across the two houses of the national legislature. Moreover, it made the procurement of special-interest legislation easier by allowing special interests to lobby the Senate directly, rather than having to proceed through the intermediaries of the state legislatures. In an era of increasing interstate commerce, accompanied by the development of groups whose interests crossed state lines, these "economies of scale" in lobbying were critical. Direct election thereby weakened the protections of

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bicameralism and made special-interest legislation easier to obtain (Zywicki, pp. 1039–47).

In preserving federalism and bicameralism, the Senate did an extraordinary job before 1913. Throughout the nineteenth century, the federal government remained small and special-interest legislation was limited. The activity of the federal government was largely confined to the provision of "public goods" such as defense and international relations (Robert Higgs, *Crisis and Leviathan: Critical Episodes in the Growth of American Government.* New York: Oxford University Press, 1987, p. 114). Although the federal government grew during national crises such as war, the passing of the crisis brought a return to a small federal government (Roger E. Meiners, "Economic Considerations in History: Theory and the Little Practice," in *Economic Imperialism,* edited by G. Radnitzky and P. Bernholz. New York: Paragon House Publishers, 1987, p. 95). The so-called "ratchet effect" of federal intervention persisting after the dissipation of the crisis that spawned it was scarcely evident in American history before World War I (Higgs, p. 30). The role of the Senate in thwarting special-interest activity on the national level and protecting the autonomy of the states was critical in preserving this arrangement.

The Seventeenth Amendment was not just a rebellion of "the people" against an inherently aristocratic institution, as Hoebeke suggests. It was primarily a rebellion of emerging special interests against federalism and bicameralism, which restrained the ability of the federal government to produce legislation favorable to those interests. Changing the method of electing senators changed the rules of the game for seeking favorable legislation from the federal government, fostering the massive expansion of the federal government in the twentieth century. Even if Hoebeke has failed to tell the full story of the Seventeenth Amendment, however, he has made an important contribution to our understanding of the system of representative democracy established by the Constitution and the forces that shape its evolution.

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✦ The Return of George Sutherland: Restoring a Jurisprudence of Natural Rights

By Hadley Arkes

Princeton: Princeton University Press, 1994.
Pp. xiv, 297. $29.95 cloth.

Hadley Arkes's *The Return of George Sutherland* is less a biography of the conservative Supreme Court justice than an extended essay on several major issues of constitutional law through which he issues a clarion call for the restoration of "a jurisprudence of natural rights." The book is thus no traditional "life and letters" portrayal of a justice remembered today, if at all, as one of the "four horsemen" who refused to give constitutional sanction to Franklin Roosevelt's New Deal. Neither does it exemplify the currently more fashionable intellectual biography, though it is the justice's philosophy that intrigues Arkes.

The private record of Sutherland's life is very thin. He left no collection of letters, no diary or journal. He is seldom the subject of private comment in the surviving records of those who knew him. It is no surprise that Arkes cites the Sutherland papers only twice. Neither is the justice's public record as voluminous as a biographer would wish. He served one term in the U.S. House of Representatives before his election in 1905 to the U.S. Senate, where he served until 1922. He made few public speeches. President Warren Harding appointed him to the U.S. Supreme Court in 1922, and he remained there until his retirement in 1938. During his fifteen years on the Court, he wrote 288 opinions. Unlike his more irascible colleague, Justice James McReynolds, the urbane Sutherland dissented infrequently, penning only 33 dissents. Whether writing for the Court or in dissent, he seldom indulged in long philosophical disquisitions.

Still, this slim record suffices to justify Arkes's conclusion that Sutherland "knew long before he ascended the bench the hierarchy of good things that made up the world he would seek to preserve"—a hierarchy "that reason itself disclosed" (p. 292). Indeed, the key to understanding Sutherland, Arkes argues, is his commitment to the natural rights philosophy he had already imbibed by the time he was twenty years old. Writing in his commonplace book in 1882, the young Sutherland quoted the following: "Natural liberty is the right which nature gives to all mankind of disposing of their persons and property after the manner they judge most convenient to their happiness, on the condition...that they do not abuse it in any way to the prejudice of other men" (p. vi).

The burden and message of Arkes's clearly written and carefully argued

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book are that the Court has undermined Sutherland's hierarchy of values by its indifference to the commands of natural law. In Arkes's summary:

> The liberal jurists of our time have made their way to a jurisprudence that requires the jural ground of those judges, like McReynolds and Sutherland, who resisted the New Deal. In short, the liberal jurists of our own day require the jurisprudence of Sutherland in order to sustain their project. Yet, they find themselves rejecting the very premises, or the ground, of that jurisprudence in natural rights. Or, they speak the words of natural rights without the moral substance. But detached from that moral substance, detached from the ground of moral truths, modern liberal jurisprudence is condemned to..."jural babble." It speaks of "natural rights" while denying that these rights can be said, in any strict sense, to be true and, therefore, truly "rightful." (p. 284).

Sutherland and McReynolds were not relativists: they were grounded in a moral culture that enabled them to distinguish right from wrong, and they believed the Constitution reflected that moral order. They were also convinced that its abandonment would lead to moral chaos. Yet these justices were no dim-witted defenders of the rich. Precisely because they subscribed to a coherent moral order, they often shielded the "have-nots" from the "have-plenties." For example, Sutherland, as a U.S. senator from Utah, crusaded on behalf of voting rights for women. Years later, he wrote for the Court in *Powell v. Alabama* (287 U.S. 45 [1933]) that the Sixth Amendment guaranteed the "Scottsboro boys" the right to counsel. In other words, his innate conservatism was infused with libertarianism, born perhaps of his growing up in the West, where people had to rely on themselves and prized their independence.

In chapter after chapter, Arkes demonstrates how the intellectual confusion of the Court's response to modern regulatory schemes has undone "the discipline of the Constitution" and led to the very moral chaos the justices feared (p. 159). For contrast he cites Sutherland's compelling opinion in *Frost Trucking Company v. Railroad Commission* (278 U.S. 515 [1929]) rejecting a state regulatory scheme that reduced any business that used trucks to the status of a common carrier. The state sought to accomplish this goal by conditioning the business's right to use public roads on its agreement to the regulatory scheme. Sutherland's response was as succinct as it was clear: the state "may not impose conditions which require the relinquishment of constitutional rights" (p. 94).

Arkes's analysis of the Court's delegation and commerce clause jurisprudence is illuminating and devastating. He argues that the modern Court has forgotten what Sutherland understood—namely, that "the formula of the Commerce Clause was a formula for the limiting of federal power; it was never offered as an econometric model for the flow of transactions in a

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modern economy" (p. 123). A similar objection could be made about the delegation doctrine: It was never intended to promote efficient government. In developing the implications of these priorities, Arkes demonstrates a depth and subtlety of understanding that surpasses that of his subject, who, he concedes, had in some of these matters only an "intuitive understanding" never fully elaborated.

Reading this book is a delightful experience. One is transported into Professor Arkes's classroom, where one sits, intrigued by the philosophical and legal puzzles he poses, awed by his knowledge, swept away by the power of his analysis. Those who read this book will never again think in quite the same way about Justice Sutherland or, more important, about the enduring question of how free people should govern themselves.

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✦ Black Wealth/White Wealth: A New Perspective on Racial Inequality

By Melvin L. Oliver and Thomas M. Shapiro

New York: Routledge, 1995. Pp. ix, 242. $22.95.

Few policy problems are as explosive or persistent as racial inequality. Fewer still have been studied so intensively. The bulk of the work by economists has focused narrowly on earnings. It is known, for example, that the black-white earnings ratio is higher today than in 1940; that much of the increase took place during the 1940s and in the late 1960s and early 1970s; and that recent increases in wage inequality have slowed the pace of racial convergence. Long-term narrowing of racial differences in the quantity and quality of schooling helped to raise the earnings ratio, although the quantitative significance of racial convergence in schooling is disputed. Also disputed are the effects of federal antidiscrimination legislation.

Although more work on racial differences in earnings can (and will) be done, the marginal social product of studying other forms of racial inequality is certainly very high. On grounds of topic alone, *Black Wealth/White Wealth* is a welcome volume. The core idea is to shift scholarly attention toward racial differences in wealth, because by comparison with earnings, there has been relatively little analysis of wealth. For some readers, this scholarly neglect will seem odd, as racial differences in wealth are several orders of magnitude larger than the differences in earnings. Measured in terms of earnings, a black middle class has emerged since World War II, but the nonhuman means of production are largely beyond its grasp.

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Black Wealth/White Wealth is divided into an introduction, seven substantive chapters, and two appendices. Chapter 1 reviews some of the relevant economic history and argues that wealth is a more important indicator of economic status than current income because wealth "brings...power and independence" (p. 32). Chapter 2 reviews various institutional impediments to black wealth accumulation—what Oliver and Shapiro call the "racialization of state policy"—highlighting the historical roles of de jure segregation, the Federal Housing Administration, and the tax code, among other factors. Chapter 3 introduces the SIPP (Survey of Income and Program Participation) database on which Oliver and Shapiro rely and also discusses conceptual problems in the measurement of wealth. Drawing on SIPP data for the late 1980s, chapter 4 presents some basic evidence of wealth inequality in contemporary America, including the unsettling finding (p. 86) that the black-white ratio of median wealth is only 0.08 (8 percent) while the black-white ratio of median household income is 0.62. Interspersed with the numbers are summaries and transcripts of various personal interviews of black and white households. The interview sample (about two dozen) was not randomly selected but chosen instead from "personal and professional networks outside academia" (p. 54) in Los Angeles (Oliver) and Boston (Shapiro). Chapters 5 and 6 continue the analysis of wealth inequality, focusing explicitly on racial differences in wealth and their origins. Chapter 7 offers policy recommendations, and the two appendices present additional tables.

Black Wealth/White Wealth has some important deficiencies. With 194 pages of text, it is deceptively long. Although Oliver and Shapiro write well, they frequently repeat themselves, close (if not quite) to the point of padding. Readers not compelled to turn every page (unlike reviewers) can get the gist from chapters 5 and 6, and (if not pressed for time) might skim the policy discussion in chapter 7.

Perhaps because they are sociologists, Oliver and Shapiro could not resist interviewing a few choice subjects. For my money, the interviews add little to the scientific value of the book, precisely because the interviewees were nonrandomly sampled (and would not have been representative, on the basis of residence, if they had been randomly sampled). What is the scientific value of quoting *verbatim* the profanity of one of the subjects—75-year-old "Kevin" (as on p. 6)? Kevin's story (p. 159) of how he rose up the ranks in the Boston shipyards—worth a "thousand mobility tables" (p. 158), according to Oliver and Shapiro—and his allegations of racial discrimination by superiors make for interesting reading, but generalizing from the experience of one man (or two dozen) is another matter.

Although Oliver and Shapiro's notion of the "sedimentation of racial inequality" highlights the role of history in forging contemporary racial

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differences, they could (and should) have done more with historical context. In a scant three pages devoted to the nineteenth century (pp. 13–15), the authors note that blacks emerged from slavery with little or no wealth but that a quarter of southern black farmers owned their farms in 1900. Other than a passing reference to the 1866 Southern Homestead Act, the authors have nothing to say about the phenomenon of postbellum black wealth accumulation, thereby missing relevant studies by Stephen DeCanio, Robert Higgs, Roger Ransom and Richard Sutch, Loren Schweninger, and this reviewer. Analyses of the public use microdata samples from the 1900, 1910, and 1940 censuses could have shed light on historical aspects of racial differences in self-employment and homeownership, but these (and other historical) data are largely ignored.

The absence of a sustained empirical analysis based on rigorously specified theory will cause economics-literate readers to be frustrated by this book. By definition, wealth at a point in time equals net savings during the previous time period, plus wealth at the start of the previous period plus any returns on that wealth, plus any intervivos transfers during the period. This intertemporal budget constraint can be iterated backward so that wealth at any date depends on the complete evolution of rates of return, earnings, consumption, intervivos transfers, and initial wealth (at date "0"). Hence, racial differences in wealth at a point in time depend on all these factors and, given suitable data, can be decomposed, just as labor economists do for earnings differences. To their credit, Oliver and Shapiro do not ignore economics, and they are well read in the contemporary literature. For the most part, however, discussion of the factors in the budget constraint is scattered throughout the book, rather than presented as an integrated whole.

The closest Oliver and Shapiro come to a true racial decomposition of wealth appears in chapter 6 (and Appendix table A6.2). Unlike the analyses in the previous chapters, which look at cross-tabs (for example, the impact of occupation on wealth), chapter 6 gives race-specific multivariate regressions of current household income, net worth, and net financial assets. Oliver and Shapiro control for demographic factors (for example, age and schooling) of the head of the household, family structure, and—in the wealth regressions—current household income. The regressions of current household income appear reasonable, although I would have preferred (as is customary in economics literature) that the dependent variable be measured in logarithms. The interpretation of the wealth regressions, however, is fuzzy. The only difference between the income and wealth regressions is the addition of income to the latter. Because the wealth regressions already control for the determinants of "permanent" income (for example, age and schooling), the income coefficients really measure the impact of "transitory" or unexplained fluctuations in current income on current wealth. These

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coefficients, though not uninteresting, are not what most economists have in mind when, thinking in terms of the intertemporal budget constraint, they attribute racial differences in wealth to racial differences in income.

Not that *Black Wealth/White Wealth* lacks valuable empirical findings or hypotheses worthy of further study. Black households are much less likely than comparable white households to hold financial assets, although why such differences exist is another matter. Racial differences in self-employment need further study, because self-employment remains a significant route toward wealth accumulation. Oliver and Shapiro are forthright in identifying various government policies and banking practices as promoting racial differences in homeownership, and I am convinced that such institutional factors deserve closer scrutiny, as does their suggestion that bequests by the parents of white baby-boomers will exacerbate racial differences in wealth in the foreseeable future.

Given the current political climate, Oliver and Shapiro are under no illusions that their policy recommendations will be quickly implemented. I doubt that most Americans favor higher inheritance taxes or replacing the mortgage-interest deduction with a "simple homeowner tax credit" (p. 184), or that Congress will act swiftly to raise the capital gains tax (p. 184). Oliver and Shapiro do not favor reparations payments to blacks, and they emphasize strongly the need to increase black self-employment and reinvestment of profits in black-owned enterprises. Enforcement of antidiscrimination legislation should be strengthened, and I agree that more can be done at the local level to encourage economic development and asset accumulation within the black community.

In sum, *Black Wealth/White Wealth* is a flawed but important book. Unconvincing as it may be in certain details, its message deserves to be heard and widely debated.

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✦ Land Rights: The 1990s' Property Rights Rebellion

Edited by Bruce Yandle

Lanham, Md.: Rowman and Littlefield Publishers, 1995.
Pp. xviii, 333. $22.95 paper, $62.50 cloth.

This excellent collection of articles on various aspects of the conflict between government and private property rights is part of the Political Economy Forum Series, edited by Terry Anderson. A central theme of all the

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books in the series is the importance of private property rights, limited government, and markets for ensuring individual liberty and promoting economic welfare. This book, edited by Clemson economist Bruce Yandle, is no exception. It contains nine chapters on property rights to land, how they have been abridged by government, and how alternatives might restore the sanctity of private property.

The first chapter, "The Property Rights Movement: How It Began and Where It Is Headed," is by Nancie G. Marzulla. She begins by describing the origins of the modern property-rights movement. Marzulla sees a turning point in 1964, when the Department of the Interior announced a moratorium on claiming desert land for farming. In response the Sagebrush Rebellion was born, and by 1978 the department had repealed some of its regulations. But the extension of government controls continued, especially through enactment of key environmental laws, including the National Environmental Policy Act, the Clean Air Acts, the Clean Water Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation, and Liability Act ("Superfund"), the Surface Mining Control and Reclamation Act, and the Endangered Species Act. Further, state and local governments exacerbated the effects of these regulations of private property through enactment of additional public health and safety laws, zoning requirements, and licensing restrictions.

Marzulla describes the mobilization of property-rights advocates during the Reagan Administration and their success through 1988. She notes that Reagan's appointees to the Environmental Protection Agency, Bureau of Land Management, and the Interior Department were very property-rights oriented and his Supreme Court appointee, Antonin Scalia, was a strong advocate of property rights. Further, Reagan issued Executive Order 12630, which required a "Takings Impact Analysis" of most government regulations to prevent unnecessary takings and to compensate property owners. These successes, however, ended with the Bush and Clinton administrations. Both appealed to the environmental lobby and ignored the property-rights movement. Marzulla, however, takes heart in the recent rise of grassroots property-rights concerns as political issues. She notes that property-rights activists have introduced bills in forty-four states to compensate property owners for losses due to environmental regulation.

Chapter 2, "Property Rights and the Police Powers of the State: Regulatory Takings: An Oxymoron?" is by Erin O'Hara, who examines the takings clause of the Constitution and the safeguards it provides for property rights. These include the requirements that private property be taken only for public use and that government provide "just compensation" for its takings. O'Hara argues that the problem arises when government doesn't physically take land, but regulates how it may be used. In these circumstances,

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obtaining compensation is difficult. She then considers regulatory takings to prevent nuisances, where compensation may not be required. But the nuisance doctrine has been interpreted to cover a broad range of regulations, as O'Hara shows by examining a variety of court cases. She analyzes the recent case *Lucas v. South Carolina Coastal Commission* (1992) to see whether it was truly a victory for the property-rights movement. Lucas was not allowed to build on land 300 feet from the coast, suffering a reduction of the value of his real estate. Although the court found in favor of Lucas, the decision contains some important loopholes. For example, the court failed to describe criteria for characterizing the property interest that will be evaluated for loss of value. O'Hara notes that even when the relevant property interest is well defined, it is often difficult to determine whether the challenged regulation precludes all economically beneficial or productive uses of the property. Finally, she points out that even if a regulation deprives land of all its economically beneficial uses, its owner need not be compensated if a court finds the proscribed use was not part of the original title. O'Hara goes on to examine other examples of regulatory takings and the conditions in which they are likely to be upheld.

In Chapter 3, "The Lucas Case and the Conflict Over Property Rights," James R. Rinehart and Jeffrey J. Pompe also examine the Lucas case, providing useful details on the background and implications of the decision.

Chapter 4, "Land Rights Conflicts in the Regulation of Wetlands," by Karol J. Ceplo, explores the political economy of wetlands protection, beginning with the 1972 Clean Water Act. A key provision of the law was Section 404, the wetlands clause, which stated that "any person wishing to discharge fill or dredging materials into the waters of the U.S. must first obtain a permit [from]...the Army Corps of Engineers." Although, the Corps was at first a rather lax enforcer of Section 404, more recently the Corps and the EPA have taken more aggressive stands. A major argument of the chapter is that the Claims Court, which has jurisdiction over the Clean Water Act, "is mindful of the takings doctrines of the Supreme Court." Hence, when the Supreme Court rules in favor of property rights and compensation, so does the Claims Court. Ceplo argues that the wetlands are being regulated inefficiently and inequitably.

Chapter 5, "Property Rights Conflicts under the Endangered Species Act: Protection of the Red-Cockaded Woodpecker," by Lee Ann Welch, deals with another regulatory infringement of private property rights. Using the red-cockaded woodpecker as an example, Welch recounts the dilemma of Ben Cone, a landowner on whose property a colony of twenty-nine endangered woodpeckers lived. He was unable to sell timber from his land and was required to maintain the birds' habitat at his expense. Welch demonstrates that the Endangered Species Act creates perverse incentives in two ways:

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first, the Fish and Wildlife Service has no incentive to recover and delist species, because it receives funding only when a species is listed as endangered; and second, private landowners have an incentive to quietly destroy an endangered species they find before it is discovered by Fish and Wildlife or to intentionally make the land uninhabitable to the species.

Chapter 6, "The Property Rights Movement and State Legislation," by Hertha L. Lund, examines federalism and the role of state governments in reasserting protection for private rights.

Chapter 7, "The Political Economy of State Taking Legislation," by Jody Lipford and Donald J. Boudreaux, also examines state issues in conflicts between environmental regulation and private-property rights to land. The authors apply a public-choice model to predict which states are likely to introduce land-rights legislation. The empirical estimates suggest that a "pro-development attitude among voters, low-cost access to state legislators, high rates of population growth, and the presence of coastal and publicly owned lands" have increased the probability of the state legislature's considering property-rights legislation.

In Chapter 8, "Elements of Property Rights: The Common Law Alternative," Roger Meiners describes cases that detail how the common law historically protected land rights. Meiners laments that we cannot know how common-law liability rules for pollution would have developed in the past few decades, because their evolution was largely precluded by statutes and regulatory controls. He suggests that the common law would have led to a strict liability rule for polluters. Meiners concludes that it is not clear that pollution statutes have provided a better solution to environmental problems than the common law might have, had it been allowed to do so.

The final chapter, "Federal Zoning: The New Era in Environmental Policy," is by Robert Nelson. He recommends reforms of environmental regulation and proposes that three key questions be asked of environmental policies: first, should this area be regulated by government at any level? second, to the degree that government regulation is appropriate, what level of government—federal, state, or local—should be ultimately responsible? and third, if a federal role is desirable, where should this responsibility be placed and how should it be administered? Nelson's suggested reforms include cost/benefit analyses, compensation for takings, avoidance of uniform regulation across the United States, and greater efforts to improve scientific understanding and information dissemination. This chapter is a fitting end to a balanced volume on critical issues affecting the sanctity of private property rights in the United States.

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✦ In the Shadow of War: The United States since the 1930s

By Michael S. Sherry

New Haven: Yale University Press, 1995.
Pp. xii, 595. $35.00 cloth.

In his new book, *In the Shadow of War,* Michael S. Sherry describes and explains the process of militarization that has fundamentally transformed American life since the 1930s. He explores the myriad ways in which war has shaped—indeed, distorted—American politics, economics, foreign policy, culture, and social relations. The voluminous and growing literature has needed this synthesis for some time, and Sherry's book will serve as a benchmark for future scholarly inquiry, refinement, and comparison.

Sherry argues that a half-century of anxiety about the nation's safety has brought about comprehensive qualitative change, which he attributes to a broad but unique historical process he calls militarization. He is critical of that change, but his sentiments are mixed. For instance, while decrying the militarization of policymaking and economic activity, he supports some social liberation spin-offs such as feminism and gay rights, although he would prefer that social progress had been accomplished in the name of "justice" rather than national security (p. 154). His critique of militarization ranges widely but, oddly, he reserves righteous anger for the ugly hypermasculinity that accompanies a few of its social aspects. Sherry's preferences and prejudices in this regard signal a central difficulty, which is that the historical process he names, and hence his critique of the changes attributed to it, includes too much.

For instance, Sherry strains to link the Tailhook episode to post-Gulf War machismo (p. 478). Detailed "connections between patriotism and sexual aggression" (p. 352) verge on psychobabble. The attempt to link relaxed immigration quotas to "the crisis of militarization" (pp. 154, 428–29; chap. 5) demonstrates how operative definitions become meaningless when framed too broadly. Militarization in such expansive form turns into both sides of nearly every coin. At one point, Sherry actually asserts that "everything that defines a nation...became annexed to this historical process" (p. 499). It may be easier to prove a thesis when all phenomena are embraced by it, but the reader is left bewildered. Still, notwithstanding definitional overreach, Sherry weaves many important observations into an impressive narrative.

Sherry recounts how society organized itself for the production of violence, then shows how the ends—total war, victory—became consuming.

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Militarization affected the broadest areas of American life, even the nation's memories, models, and metaphors. (The Civil War and World War I had already infused a furtiveness into the American mind.) When Franklin Roosevelt invoked war as a metaphor for the Great Depression and a model for achieving recovery, he called on a selective collective memory of national unity in 1917–18. He would attack the economic crisis with the disciplined "army of our people" as if we had been "invaded by...foreign foe" (p. 15).

Henceforth, war ceased to be an episodic event in American fact and fiction. Depression merged into World War II then into Cold War. Fictional wars became staple against poverty, illicit drug use, disease, and so forth, while "national security" grew to become a broad, continuous defense of the nation on a global scale against sustained, sometimes unseen, and shifting threats. From FDR to Clinton, Americans have found it difficult to mount effective federal efforts to deal with national problems *unless* the efforts are justified by war or war's surrogate. (A classic statement is William Leuchtenburg, "The New Deal and the Analogue of War," in *Change and Continuity in Twentieth-Century America,* edited by J. Braeman and others. Columbus: Ohio State University Press, 1964.)

Stages of Militarization

Readers may find Sherry's "stages" of militarization problematic. So-called "consolidation" of the process during the Korean conflict and domestic Red Scare is straightforward and understandable. The years from 1953 to 1961, which Sherry describes as an "uneasy balance," seem aptly named, and "crisis" from 1961 to 1966 intuitively registers in most people's minds. (However, 1968 may be more justified than 1966, and Sherry admits the demarcations are necessarily fuzzy.) He goes off the deep end, though, in connecting the counterculture with militarization. To link the two, much less to subordinate one to the other, he would have to start his story before 1933—as far back as 1920 and, perhaps, as far back as the 1890s and the crisis of Victorianism. To have done so, however, would have undermined his claims for the uniqueness, much less the all-inclusiveness, of the militarization starting in 1933.

The stage "war mentality in triumph, 1966–74," calls forth much Nixon bashing. Naturally, Watergate had "compelling links to the history of war and militarization," too (p. 331). The "back to the future" stage, 1975–81, is interesting for its discussion of clashing cultures: resurgent patriotic culture with its calls for "moral and military rearmament" versus a regalvanized antiwar and antinuclear movement (p. 350). Sherry also offers insightful commentary on the declining economic benefits of militarization (p. 389).

The "illusory remilitarization" stage, 1981–88, gives Sherry an opportunity to offer every conceivable explanation, except the obvious one, for

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why Ronald Reagan presided over the end of the Cold War. Reagan, we are told, had nothing to do with release of the Iranian hostages, much less the dumb luck it took to win the Cold War. Any achievement on his part regarding the Cold War was "largely an illusion" (p. 391). The Iran-Contra scandal was fortunate, as it prompted Reagan to embrace the Intermediate Nuclear Force Treaty. The Soviets under Gorbachev's exquisite leadership deserve the credit because Reagan nearly spoiled the deal by insisting on his silly Strategic Defense Initiative (pp. 411–13).

Despite Sherry's obvious biases, he makes a fascinating case that militarization differed during the 1980s. It turned increasingly inward, in search of new enemies and an artificially heightened national unity (pp. 392, 430). Again, one wonders whether militarization—rather than, say, nationalism—is the culprit, as one can easily find similar examples before 1933. Sherry's post-1988 stage is the last, very tentative one. He details an apparent "farewell" to militarization, as well as lingering aspects of it. He also links today's "culture war" to the litany of other fictional wars, but he finds this one particularly disconcerting, if mercurial and uncertain at the present juncture (p. 497).

Throughout Sherry's treatment of militarization, one of his most intriguing arguments is that something more than external threats activated (and activates) America's anxiety and the attendant process of militarization. He probably underrates the genuine military threats to American security and vital interests during the Cold War, but the point is well taken. The American form of militarization depended on our unique political culture. Americans' actions and attitudes in the "shadow" of war reflected our own values and ambitions as much as they reflected threats from abroad.

Americans played the armchair warrior, anxious about outcome and piqued by a sense of danger, all the while remaining relatively safe and comfortable. Venerable American ideals and pursuits of profit, equality, and moral perfection all entered in, even if yoked to the demands of war. Militarization, however defined, probably stemmed in part from what Seymour Martin Lipset has called "the dark side of American exceptionalism" (*American Exceptionalism: A Double-Edged Sword*. New York: Norton, 1996, p. 267). Still, the "yoking" made the period from 1933 to the aftermath of the Cold War what it was. To that extent, Sherry successfully conveys the character of a unique historical era, if not a process, that witnessed qualitative changes in American society, economy, politics, diplomacy, and culture.

World War II: The Key Event

From Franklin Roosevelt's perspective, war would bring about elusive economic recovery. Moreover, a deeper logic would blend the New Deal's "internal preparedness" strategy into the military preparedness effort

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justified by international conflict. War would become the most important means of legitimizing the activist and coercive role the state assumed at home (pp. 31–32). Indeed, most Americans probably felt they had no more control over their government in the winter of 1941 than they had over the German Blitzkrieg or the global crisis (p. 63). Much of what we routinely attribute to the Cold War alone was thus forged in the 1930s, including the institutional connections of a powerful military establishment and the civilian executive leadership. Roosevelt essentially waged cold war against the Axis powers before Pearl Harbor. Ironically, cold-war mentality preceded the Cold War (pp. 45, 88).

In fact, American and German forces fired on each other in naval tit-for-tat for months before the date that lives in infamy. Historian Charles Beard, though supportive of Lend-Lease objectives, rightly observed that it was nothing short of a legislative means to wage undeclared war—this a long time before the "conflicts" entered under United Nations auspices or the Gulf of Tonkin Resolution. Even public angst was high before Pearl Harbor, which helps to explain the unprecedented panic on the West Coast after the Japanese attack on Hawaii. Coupled with racial antipathies, the angst led to the reprehensible detention of Japanese alien residents and American citizens of Japanese ancestry. Although Sherry faults Roosevelt for much of the emergence and triumph of militarization in America, he never explicitly links FDR to what he terms America's "concentration camps." Moreover, Sherry gives Roosevelt unsubstantiated credit for having "facilitated" America's productive and inventive achievements during the war years.

World War II reinforced a lasting business-government partnership in the name of national security. Because most people experienced relative prosperity during the war years, that partnership entailed some supposed validation of Keynesian economic principles, particularly the use of fiscal policy to promote prosperity into the future. So far as the rationale for public works projects is concerned, nonnuclear wars are nearly ideal, and the Cold War was nothing if not a great pump-primer (pp. 75, 136). Sherry makes no mention of the recent challenge to the orthodox view of the economic effects of World War II (Robert Higgs, "Wartime Prosperity? A Reassessment of the U.S. Economy in the 1940s," *Journal of Economic History* 52 [March 1992]: 41–60).

Of course, World War II also caused a great deal of social change, much admittedly positive for minority groups. Moreover, this change was less transitory than similar changes produced by other wars, because post-1945 militarization sustained the change and promoted its continuation. Referring simultaneously to the reality of Jim Crow at home and the requisites of world power and image abroad on the eve of the Cold War, FDR emphasized that the nation could "no longer afford to indulge such prejudice." One can

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only speculate about the extent to which this new federal imperative would metamorphose into a full-blown counterculture. In any event, from the GI Bill to various other forms of "social engineering," the federal government's immersion in social welfare and social change became the key force in social relations following World War II (p. 109). This role had no precedent and may even have altered the historically cyclical nature of American society and politics (p. 99). Although it may not fully account for feminism, gay rights, and hypermasculinity, it accounts for a great deal.

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✦ For the President's Eyes Only: Secret Intelligence and the American Presidency from Washington to Bush

By Christopher Andrew

New York: Harper Collins Publishers, 1995.
Pp. xii, 660. $30.00 cloth.

Christopher Andrew's book examines in critical detail the use and abuse of the intelligence community throughout the history of the American presidency. Andrew provides a lucid narrative surveying how presidential ignorance and misconceptions concerning intelligence matters led directly to a number of perceived "intelligence failures." Overall the book is tough but fair regarding presidential performance. Andrew concludes that "only four American presidents—Washington, Eisenhower, Kennedy (briefly), and Bush—have shown a real flair for intelligence" (p. 537).

Andrew adroitly demonstrates that "intelligence gathering" was not taken seriously for most of the early history of the United States. The interest of one future president, General Zachary Taylor, is described as "barely [going] beyond peering at the enemy through binoculars" (p. 14). Interest alone seldom produces successful use of intelligence by presidents. For example, President Abraham Lincoln, while exhibiting a strong interest in intelligence, demonstrated little acumen. Lincoln personally recruited William Alvin Lloyd, a publisher of railroad and steamboat guides in the southern states, as a spy. Lloyd's activities can be described as truly farcical, and the value of the information he provided was minimal. After Lincoln's assassination, Lloyd returned to Washington to find that Congress refused to pay him. His promised remuneration was not secured until a Supreme Court decision, which ironically upheld an important presidential prerogative—the right to employ secret agents. Even with Lincoln's interest

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and personal involvement, he did not take intelligence gathering seriously enough to work toward a centralized intelligence service.

According to Andrew, time and experience had little impact on the lack of seriousness placed on gathering intelligence. Although President Woodrow Wilson supervised the creation of the first professional intelligence staff in U.S. history, Wilson "paid scant attention to it" (p. 60). Instead, he devoted his energies to creating the higher moral plane of open diplomacy, where intelligence collection would be "obsolete" (p. 61).

Franklin D. Roosevelt's stint as assistant secretary for the Office of Naval Intelligence during Wilson's presidency made him one of the first presidents to have hands-on experience with intelligence prior to taking office. Yet, even with FDR's background, he made few improvements in the professionalism or efficient use of the intelligence services. A major theme permeating Andrew's two chapters on FDR is the sophomoric nature of FDR's understanding and use of the intelligence assets at his disposal. This is seen in FDR's predilection for private sources of intelligence. One such group, known as "The Room," was organized by millionaire publisher Vincent Astor and a number of like-minded dilettantes. The antics of this and other private services graphically illustrate what Andrew calls the "element of fantasy" in FDR's understanding of intelligence (p. 133). It also matches the author's description of FDR's bias against SIGINT (signal intelligence) in favor of HUMINT (human intelligence). Andrew goes to great lengths to demonstrate that while "SIGINT provided him with the best intelligence in the history of warfare," FDR still dreamed unrealistically of creating elaborate networks of penetration agents (p. 139).

Another important theme of Andrew's book is the overall fealty of the intelligence services to the dictates of the American presidents, even to poorly thought-out directives such as the Bay of Pigs operation. Andrew chronicles numerous presidential abuses of intelligence services from Herbert Hoover's authorized break-in of the Democratic party headquarters to a very similar act sanctioned forty-two years later by Hoover's eighth cousin once removed, Richard M. Nixon. The chronicling of the Watergate debacle not only provides some of the most humorous anecdotes of the book, but aptly demonstrates the futility of trying to cover up covert operations gone awry. This was a lesson relearned by Ronald Reagan, whose administration was tainted by the inappropriate use of intelligence assets during the Iran-Contra scandal. In each case, Andrew demonstrates how intelligence services have faithfully carried out presidential directives, even unethical or illegal ones.

In discussing the loyalty of the intelligence services, Andrew demonstrates the difficulty the agencies had in dealing with the assumptions, idiosyncrasies, and outright biases of the individual presidents. Presidential views

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of the intelligence community varied widely. Lyndon B. Johnson and Nixon believed that the CIA had previously conspired against them (pp. 309, 350), and Carter is described, by then Director of Central Intelligence George Bush, as exuding a "deep antipathy to the CIA" (p. 426). Bush, as a former head of CIA, understood the limits of intelligence operations better than any other president. In addition, Bush was popular with the intelligence community because he gave analysts what they craved—feedback on their work. In times of crisis, Bush did not simply rely on summary reports; he always wanted to know what the local station chief thought of the situation (p. 505). Throughout the book, Andrew documents the impact of presidential personality and style on intelligence operations.

In discussing the various levels of presidential skill in utilizing intelligence reports, Andrew states, "*how* they have used [intelligence] is an essential—though frequently neglected—part of the history of every administration" (p. 537; italics in original). "How" a president used intelligence depended on the assumptions inherent in his worldview. A number of "intelligence failures" arose in part from erroneous assumptions held by presidents and their senior advisors that affected how intelligence analysts couched reports to the White House.

The North Korean invasion surprised the Truman administration, whose leaders had not anticipated that the Soviet Union would view Korea as contestable; it occurred to no one that the initiative might have come from Kim Il Sung. Similarly, the entry of 300,000 Chinese into the conflict came as a surprise because no one expected the *Soviets* would involve the Chinese. Intelligence assessments, according to Andrew, were distorted by false assumptions about monolithic Soviet control of the entire Communist world that the White House did not question. Andrew cogently demonstrates that the "failure" of intelligence to predict the Tet Offensive and the Yom Kippur War similarly arose in part from stubborn refusal of the president and his advisers to accept data that disagreed with their preconceptions.

From the simple cipher codes of Washington to the advent of real-time intelligence gathering devices utilized during the Gulf Conflict, the level of available technology has increased exponentially. The author does an admirable job of demonstrating the double-edged nature of this technology. The technological abilities that "awed" Margaret Thatcher on her visit to Cheyenne Mountain also create "exaggerated expectations" in those who use the intelligence (p. 538). Andrew correctly places a good deal of the blame for the exaggerated expectations back on the intelligence community, which was so eager to impress each incoming president with the sophistication of its product that the limitations were consciously and consistently played down.

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Andrew has produced a book that equals the best of his previous work—in itself a feat. *For the President's Eyes Only* is an important contribution to the literature on the U.S. intelligence community. It is true, as Roy Godson states in *Dirty Trick or Trump Cards: U.S. Covert Action and Counterintelligence* (Washington: Brassey's, 1995, p. xi), that "the intelligence equivalents of Sun Tsu or Clausewitz have yet to appear." Still, Andrew's book comes admirably close as an academic treatise documenting presidential involvement in matters of intelligence. Like the works of Sun Tsu and Clausewitz, it has value to both serious generalists and scholars. For generalists, the book has breadth equal to that of G.J.A. O'Toole's *Honorable Treachery: A History of U.S. Intelligence, Espionage, and Covert Action from the American Revolution to the CIA* (New York: Atlantic Monthly Press, 1991) and is more accessible than Stephen F. Knott's *Secret and Sanctioned: Covert Operations and the American Presidency* (New York: Oxford University Press, 1996). Students of the intelligence community will appreciate not only the detailed scholarship but the important themes that permeate the volume. It is a vital addition to any library.

Andrew is perceptive to focus on the importance of how presidents use the information provided to them. Future presidents, facing a more complicated and still dangerous world, will continue to find an enormously expensive and technologically advanced intelligence system "both fallible and indispensable" (p. 541).

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✦ One for All: The Logic of Group Conflict

By Russell Hardin

Princeton: Princeton University Press, 1995.
Pp. xiv, 288. $24.95 cloth.

A wave of brutal wars has followed the fall of communist regimes in Eastern Europe and the Soviet Union. Unfortunately, such barbaric events are hardly unusual—the Holocaust is the most horrible example from recent history. In such events, large numbers of individuals act on behalf of groups. Russell Hardin's recent book, *One for All,* "is an effort to understand the motivations of those who act on behalf of groups and to understand how they come to identify with the groups for which they act" (p. 4).

The book is not a historical work intended to *describe* specific ethnic conflicts, although it presents many details; rather, it is primarily an attempt

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to *explain* those conflicts. For this purpose, Hardin applies the Theory of Rational Action, a theory with a long tradition in the social sciences. Notwithstanding the book's explicit theoretical perspective, it is accessible to a general reader with some social science knowledge, and it is enjoyable to read—something one can say of only a few social science books.

Hardin's starting point is the observation that acts of nationalism or group conflict are types of collective action. The problem is to explain how these extreme types of collective action come about. A large body of literature, based on the Theory of Rational Action, deals with the general conditions under which members of a group act collectively to attain common goals or, put differently, to provide collective goods (e.g., peace or a clean environment). According to Mancur Olson's seminal work (*The Logic of Collective Action: Public Goods and the Theory of Groups*. Cambridge, Mass.: Harvard University Press, 1965), members of large groups usually do not act to attain their common goals, the major reason being that in a large group an individual actor has only a negligible influence on creating the collective good, but has to bear a cost if he or she contributes. Furthermore, if a common goal (collective good) is provided, every group member can enjoy it even if he or she has not contributed to producing it. Hence, the incentive to "free ride"—to wait until others have provided the good, and then consume it. Collective action in large groups requires "selective incentives," costs or benefits that depend on whether people contribute. Because acts of nationalism are a specific type of collective action, the question becomes: How can this type of collective action arise? Answering this question is the task of Hardin's book (p. 5).

One important implication of this approach to explaining ethnic conflict is that nationalist behavior, such as ethnic cleansing, is not viewed as primordial or irrational. Such behavior is presumed to be in the individual's interest. This basic hypothesis opens the way for a detailed consideration of the individual's motivations, his interactions with others, and the structural conditions that promote or hinder the realization of individual interests. In particular, Hardin seeks to identify the selective incentives that lead individuals to engage in acts of nationalism.

One of Hardin's basic propositions is that *identification with a group* is a condition for engaging in actions that further the common goal. "Identification" means "commitment" (p. 7) or "concern that a person has with the interests of a particular group or concern to be included within the group" (p. 10). This assumption raises two questions: How does group identification arise? And what effects does group identification have on nationalism or ethnic conflict?

Hardin argues that identification with a group arises from individual interest. This is not to say that an individual simply chooses to identify with a

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group. Instead, often various choices are made that finally lead to identification (p. 48). In developing this argument, Hardin notes that very often participation in group conflicts benefits the individuals who participate. The benefits may be material, such as getting a better job if the group succeeds, or more subtle, such as participating in the pleasures of group life (pp. 53–54). But Hardin also notes that "a nationalist or ethnic commitment might...involve only ideal-regarding and other-regarding motivations" (p. 49).

Certain norms holding specifically for members of a group are another condition for ethnic conflicts. Hardin distinguishes norms of difference and exclusion from universalistic norms. The former "redound to the benefit of members of a more or less well-defined subgroup within a larger society," whereas the latter "apply universalistically to more or less all members of a society" (p. 72). An example of the former is the norm of honor in the duel among aristocrats, which Hardin analyzes at length. In contrast, the norm of truth-telling is universalistic. Hardin argues that norms of difference and exclusion "typically reinforce individual identification with the group and enhance the separation of the group from the larger society" (p. 72). At the same time, group identification fosters the emergence of norms of difference. Hardin analyzes in detail the processes that lead through feedback effects to the maintenance of such norms. He makes the important point that norms of difference, in contrast to universalistic norms, are often self-enforcing.

Group identification and existing norms of difference, by themselves, do not lead to group violence. Other conditions are necessary. If group identification is sufficient, a major condition for joint action is mobilization. That is, if there is individual willingness to act for a group and some mechanism of coordination for violent action, then group identification and existing norms of difference lead to violent conflicts. In chapter 6, Hardin closely analyzes the mechanisms that may lead to violent group action and provides detailed examples in support of the argument.

Hardin also considers moral questions. His analysis suggests that successful group mobilization has brought about "some of the worst disasters in the history of humanity" (p. 182). Communitarians generally neglect this historical fact. Hardin provides a detailed discussion of the currently very popular communitarian school of thought.

Although the book focuses on violent group conflict, it also deals with broader issues of the gains and losses of community, the consequences of group identification, and the formation of norms of difference and universalistic norms.

As indicated earlier, the book is enjoyable to read. It is rich in the sense that it utilizes the work of classical writers such as Adam Smith and David

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Hume, presents many examples from everyday life, and provides many insights in passing. It is not a rigorous theoretical exercise with systematic empirical applications. One drawback of such books is that the reader has difficulty in precisely reconstructing the theoretical propositions. It took me a long time to arrive at the preceding presentation of Hardin's theory, and I am not sure whether Hardin would accept it.

I doubt that Hardin really explains identification in the sense of an emotional commitment, as opposed to mere group membership. For example, many citizens of former communist states entered the communist party or contributed to what was defined as the group interest. But apparently only a few really were committed to the goals of the group. The question therefore remains: Under what conditions do individuals not only act for a group but actually identify with it? There is an extensive literature in social psychology, such as the works of Izek Ajzen and Martin Fishbein, on attitude formation. Because identification with a group is a certain kind of attitude, the social psychologists' work could help in explaining how group identification arises.

Another problem is the explanatory import of functionalist arguments. Many social theorists, including proponents of the Theory of Rational Action, analyze the gains and losses of certain behaviors or institutions for the group or for subgroups of actors. For example, Hardin discusses the extent to which violent conflicts benefit or harm the parties involved. Such analyses are interesting, but what do they really explain? Hardin is aware of this problem but does not pay enough attention to it. For example, he analyzes at length how a certain norm establishes "identity," but only briefly discusses how this norm emerges (pp. 86–88). It seems that Hardin even thinks the latter question is not important (pp. 88, 156). But because the Theory of Rational Action focuses on individual actors, its exponents should be particularly concerned with the latter issue. Hardin often mentions tipping phenomena—the effects of the actions of a certain number of individuals on the actions of other individuals. Although these phenomena are now well known, little work has been done in modeling related evolutionary processes. Such work would be particularly interesting in application to violent ethnic conflicts. (*Editor's note:* Tipping phenomena play an important part in Timur Kuran's analysis, reviewed herein by Loren Lomasky.)

Hardin notes that norms of difference take many forms. For example, there are many different norms of dress or norms of linguistic usage such as slang (see particularly chap. 4). But why are certain rules about dress preferred to others? Although Hardin provides intriguing examples of the great variety of norms of difference, he does not provide any general propositions to answer this question. Leaving the question largely open may be an unintended consequence of making functionalist arguments: If I am mainly

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interested in the "functions" of group norms, I am less interested in the specific form of norms than in their functions, such as the reinforcement of group identification.

Despite the foregoing problems, the book has many merits. It considers a broad array of issues, including the emergence and effects of norms, the emergence and effects of group identification, the philosophy of communitarianism, and the emergence and effects of violent group conflict. Its basic propositions about group conflict are at odds with common beliefs as well as with much current social theory. The book contributes new and interesting propositions to the Theory of Rational Action. The issues and arguments the book presents and its accessible style will certainly attract a large readership.

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Etceteras . . .

Public Choice and Political Leadership

PUBLIC CHOICE ANALYSTS PROCEED on the assumption that individuals do not differ as they participate in private and public affairs. The man who shops for groceries, they say, is the same man who votes. The woman who decides where to invest her savings is the same woman who serves in the state legislature. In the jargon of economics, each person has a utility function that remains in place whether the person acts in the market or in the political arena. If people behave differently when they possess governmental authority, they do so only because governmental actors face different incentives and constraints than private-sector actors. Accordingly, public choice analysts conclude, for example, that it is futile to "throw the rascals out" in elections, because the new officeholders will themselves become rascals in response to the incentives and constraints inherent in their positions.

As behooves an operating assumption, this one serves a certain purpose. It allows the analyst to abstract from any differences that do set public and private actors apart and thereby to determine how institutional differences in incentives and constraints alone elicit differing actions even if the actors have identical motives. So far, so good. Unfortunately, here as elsewhere, the analysts tend to fall in love with their theoretical assumption. Before long, they start to think it is actually true, as opposed to merely useful. The most cocksure analysts regard any questioning of the assumption as a sign of mental frailty.

Whatever its merits as an operating assumption in positive political analysis, the proposition that the people who wield political power are just like the rest of us is manifestly false. Lord Acton was not just expelling breath when he said that "power tends to corrupt, and absolute power corrupts absolutely." Nor did he err when he observed that "great men are almost always bad men"—at least if "great men" denotes those with great political power (Acton as quoted by James C. Holland in his "Introduction" to John Emerich Edward Dalberg Acton, *The History of Freedom*. Grand Rapids, Mich.: The Acton Institute, 1993, p. 2).

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Among the most memorable lines in Friedrich A. Hayek's *Road to Serfdom* (Chicago: University of Chicago Press, 1944) is the title of chapter 10, "Why the Worst Get on Top." Hayek was considering collectivist dictatorships when he noted that "there will be special opportunities for the ruthless and unscrupulous" and that "the readiness to do bad things becomes a path to promotion and power" (p. 151). But the observation applies to the functionaries of less egregious governments, too. Nowadays nearly all governments, even those of countries such as the United States, France, or Germany, jokingly described as "free," provide numerous opportunities for ruthless and unscrupulous people. As Robert A. Sirico has written, tipping his hat to Lord Acton, "the corrupt seek power and use it absolutely" (*Wall Street Journal,* 20 August 1996). Decent people, virtually by definition, do not seek to exercise political power over their fellows. The enigma is that so many citizens continue to admire and defer to the reptilian wretches who rule them.

Of all the accounts of political leadership I have read, most of which obsequiously endorse the myths propagated by the master class itself, the best is anthropologist F. G. Bailey's *Humbuggery and Manipulation: The Art of Leadership* (Ithaca: Cornell University Press, 1988). Bailey gets right to the point by noting in his preface that "leaders and gangsters have much in common" (p. xiii). Of course, political leaders are much more ambitious than gangsters. The latter are content to take your money, whereas the former, besides taking far more of your money, have the effrontery to violate your just rights whenever their convenience dictates, anticipating your gratitude for their compassionate devotion to your welfare.

To put citizens into a suitably servile and moronic frame of mind, political leaders dish out claptrap day and night. Followers "are cajoled into devotion by the leader's pretended concern or admiration for them or for some cause in which they believe, by a pretense of virtue; it is mostly humbuggery.... [T]he role of leader requires performances in defiance of truth, ranging from the mild and on the whole inoffensive metaphorical exaggerations...to actions that are carefully written out of autobiographies because they are shamefully dishonest or even criminal" (p. 169).

Honorable people, taking a wrong turn and blundering into positions of political leadership, would last no longer than a nun in a brothel. If ruthless rivals did not displace them at the earliest opportunity, the scrupulous people would soon remove themselves in disgust. People who lack pugnacity do not succeed as prize fighters; people who lack a talent for lying, stealing and, if need be, abetting homicide do not succeed in modern politics. As Bailey puts it, "Leaders are not the virtuous people they claim to be; they put politics before statesmanship; they distort facts and oversimplify issues; they promise what no one could deliver; and they are liars.... [L]eaders, if

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they are to be effective, have no choice in the matter. They could not be virtuous (in the sense of morally excellent) and be leaders at the same time" (p. 174).

Some critics have condemned public choice analysis for promoting cynicism about politics, government officials, and public affairs in general. In contrast, Bailey surveys the scene through the dispassionate eyes of a well-traveled social scientist. "Much of the time," he affirms, "the humbuggery works and the enthusiastic followers are carried on a wave of passion and euphoria until the wave breaks on the rock of reality and they find themselves dumped. The cynics, meanwhile, stay out beyond the surf and stay afloat" (p. 173). It is true, I think, that public choice analysis fosters cynicism about political leaders. But not as much as they deserve.

ROBERT HIGGS

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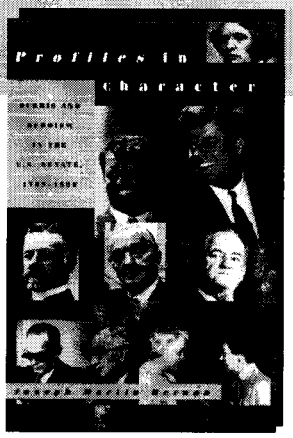

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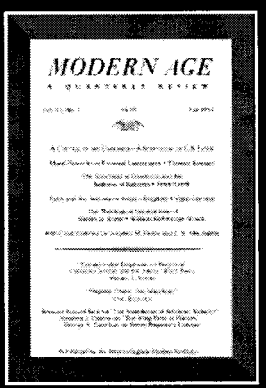

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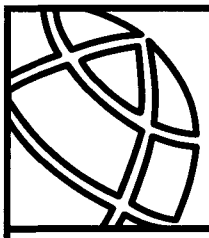

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